



RNI No. MAHBIL /2012/46122

महाराष्ट्र शासन राजपत्र

भाग आठ

वर्ष २, अंक २]

गुरुवार ते बुधवार, ऑगस्ट ११-१७, २०१६/श्रावण २०-२६, शके १९३८

[पृष्ठे ११६ किंमत : रुपये ६.००

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

पुढील विधेयके, अध्यादेश, अधिनियम, इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना प्रसिद्ध झालेले आहेत :—

१२

सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Money-Lending (Regulation) Bill, 2014 (L. A. Bill No. I of 2014), introduced in the Legislative Assembly on the 24th February 2014, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. I OF 2014.

A BILL

to regulate the transactions of money-lending in the State of Maharashtra.

WHEREAS the harassment at the hands of money-lenders had been increased in the State resulting into the frequent suicides by farmers ;

AND WHEREAS the then existing enactment on money-lending was found to be inadequate to protect the farmers-debtors and to prevent them from the harassment by the money-lenders ;

AND WHEREAS under the circumstances it became absolutely necessary for the Government to take appropriate and stringent social and legal measures to effectively prevent the harassment to the farmers-debtors at the hands of the money-lenders ; it was expedient to make a new law having better provisions for the regulation and control of transactions of money-lending in the State of Maharashtra ;

AND WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law, for the purposes aforesaid ; and, therefore, promulgated

Mah. the Maharashtra Money-Lending (Regulation) Ordinance, 2014, on the 16th
Ord. I of January 2014;

2014. भाग आठ—१

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Maharashtra Money-Lending (Regulation) Act, 2014.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 16th January 2014.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "bank" means a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies and includes,—

10 of
1949.

(a) the State Bank of India constituted under the State Bank of India Act, 1955 ;

23 of
1955.

(b) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 ;

38 of
1959.

(c) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or, as the case may be, under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 ; and

5 of
1970.
40 of
1980.

(d) any other banking institution referred to in section 51 of the Banking Regulation Act, 1949 ;

10 of
1949.

(2) " banking company " shall have the same meaning as assigned to it by clause (c) of section 5 of the Banking Regulation Act, 1949 ;

10 of
1949.

(3) " business of money-lending " means the business of advancing loans whether in cash or kind and whether or not in connection with, or in addition to any other business ;

(4) " capital " means a sum of money which a money-lender invests in the business of money-lending ;

(5) " company " means a company as defined in the Companies Act, 1956 or the Companies Act, 2013 ;

1 of
1956.
18 of
2013.

(6) " Co-operative Bank ", " co-operative society ", " multi-state co-operative Bank " and " primary credit society " shall have the same meanings as assigned to them by clause (c) of section 56 of the Banking Regulation Act, 1949 ;

10 of
1949.

(7) " debtor " means a person to whom a loan is advanced whether in cash or kind and includes his successor in interest or surety ;

(8) " inspection fee " means the fee leviable under section 12 in respect of inspection of books of accounts of a money-lender ;

(9) " interest " includes any sum by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of, or otherwise in respect of, a loan, but does not include any sum lawfully charged by a money-lender for, or, on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force ;

(10) "investment in business" means total amount invested, from time to time, in business of money-lending by a money-lender ;

(11) "licence" means a licence granted under this Act ;

(12) "licence fee" means the fee payable in respect of a licence ;

(13) "loan" means an advance at interest whether of money or in kind but does not include,—

(a) a deposit of money or other property in a Government Post Office bank or in any other bank or in a company or co-operative society ;

(b) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860 or any other enactment relating to a public, religious or charitable object ;

(c) a loan advanced by the Government or by any local authority authorized by the Government ;

(d) a loan advanced to a Government servant from a fund, established for the welfare or assistance of Government servants, and which is sanctioned by the State Government ;

(e) a deposit of money with, or a loan advanced by, a co-operative society ;

(f) an advance made to a subscriber to, or a depositor, in a provident fund from the amount standing to his credit in the fund in accordance with the rules of the fund ;

(g) a loan to, or by, an insurance company as defined in the Insurance Act, 1938 ;

(h) a loan to, or by, a bank ;

(i) a loan to, or by, or deposit with, any corporation (being a body not falling under any of the other provisions of this clause), established by or under any law for the time being in force which grants any loan or advance in pursuance of that Act ;

(j) an advance of any sum exceeding rupees three thousand made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note ;

(k) an advance of any sum exceeding rupees three thousand made on the basis of a *hundi* (written in English or any Indian language) ;

(l) an advance made *bonafide* by any person carrying on any business, not having for its primary object the lending of money, if such advance is made in the regular course of his business ;

(m) except for the purposes of sections 29 and 31,—

(i) a loan, by a landlord to his tenant for financing of crops or seasonal finance, of not more than Rs. 1,000 per acre of land held by the tenant ;

(ii) a loan advanced to an agricultural labourer by his employer ;

Explanation.—The expression "tenant" shall have the meaning assigned to it in the Maharashtra Tenancy and Agricultural Lands Act, or any other relevant tenancy law in force relating to tenancy of agricultural lands, and the expressions "financing of crops" and "seasonal finance" shall have the meanings assigned to them in the Maharashtra Agricultural Debtors' Relief Act ;

(14) "money-lender" means,—

(i) an individual ; or

(ii) an undivided Hindu family ; or

(iii) a company other than a non – banking financial company regulated under Chapter IIIB of the Reserve Bank of India Act, 1934 ;

2 of
1934.

(iv) an unincorporated body of individuals, who or which,—

(a) carries on the business of money-lending in the State ;
or

(b) has his or its principal place of such business in the State; and

includes a pawn-broker, but does not include,—

(i) Government ;

(ii) a local authority ;

(iii) a Bank ;

(iv) a Co-operative Bank ;

(v) a multi-state Co-operative Bank ;

(vi) a Non- Banking Financial Company ;

(vii) a primary credit society ;

(viii) a Regional Rural Bank ;

(ix) the Reserve Bank of India ;

(x) the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963 ; or

10 of
1963.

(xi) any other banking or financial institution which the State Government may, by notification in the *Official Gazette* specify in this behalf ;

(15) "pawn-broker" means a money-lender who in ordinary course of his business advances a loan and takes goods in pawn as security for payment of such loan ;

(16) "prescribed" means prescribed by rules made under this Act ;

(17) "principal", in relation to a loan, means the advance actually made to a debtor whether in cash or in kind ;

(18) "Regional Rural Bank" means a bank established under section 3 of the Regional Rural Banks Act, 1976 ;

21 of
1976.

(19) "recognized language", in relation to Brihan Mumbai, means Marathi or Hindi and elsewhere, the language recognized by the Government ;

(20) "register" means a register of money-lenders maintained under section 7 ;

(21) "Registrar General" means the Registrar General of Money-Lending appointed under section 3 ;

(22) "rules" means the rules made under this Act ;

(23) "State" means the State of Maharashtra ;

(24) "suit to which this Act applies" means any suit between a money-lender and a debtor or his successor arising out of a loan advanced whether before or after the commencement of this Act ;

(25) "trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes,—

- (i) a wholesale or retail merchant,
- (ii) a commission agent,
- (iii) a broker,
- (iv) a manufacturer,
- (v) a contractor,
- (vi) a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of this clause, an "artisan" means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

3. (1) The State Government may, by notification in the *Official Gazette*, appoint the Registrar General of Money-Lending and such number of Divisional Registrars, District Registrars and Assistant Registrars as it thinks proper.

Appointment of Registrar General and other officers to assist him.

(2) The Registrar General shall have jurisdiction throughout the State. The Divisional Registrar shall have jurisdiction throughout his division, the District Registrar shall have jurisdiction throughout his District and the Assistant Registrar shall have jurisdiction, in such area of the District as the State Government may, by order, specify. The Divisional Registrar shall be subordinate to the Registrar General, the District Registrar shall be subordinate to the Divisional Registrar and the Assistant Registrar shall be subordinate to the District Registrar.

4. No money-lender shall carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence.

5. (1) Every money-lender shall annually, before such date as may be prescribed, make an application in the prescribed form for the grant of licence to the Assistant Registrar of the area within the limits of which, the place where he carries on or intends to carry on the business of money-lending is situated. When he carries on or intends to carry on such business at more than one place, a separate application in respect of each such place shall be made to such Assistant Registrar. Such application shall contain the following particulars, namely :—

Application for licence.

(a) the true name in which such money-lender intends to carry on business and the true name of the person propose to be responsible for the management of the same ;

(b) if the application is by or on behalf of,—

(i) an individual, the true name and address of such individual;

(ii) an undivided Hindu family, the true names and addresses of the manager and the adult coparceners of such family ;

(iii) a company, the true names and addresses of the directors, managers or principal officer managing it ;

(iv) an unincorporated body of individuals, the true names and addresses of such individuals;

(c) the area and the place or principal place of the business of money-lending in the State ;

(d) the name of any other place in the State where the business of money-lending is intended to be carried on;

(e) whether the person signing the application has himself or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the company or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of March immediately preceding the date of application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same name or any other name ;

(f) the total amount which such person intends to invest in the business of money-lending in the year for which the application has been made ;

(g) if the places at which the business of money-lending is to be carried on are more than one, the true names of persons who shall be in the management of business at each such place.

(2) The application shall be in writing and shall be signed,—

(a) (i) if the application is made by an individual, by the individual;

(ii) if the application is made on behalf of an undivided Hindu family, by the manager of such family ;

(iii) if the application is made by a company or unincorporated body, by the managing director or any other person having control of its principal place of business;

(b) by an agent authorized in this behalf by a power of attorney by the individual money-lender himself, or the family or the company or the unincorporated body, as the case may be.

(3) The application shall also contain such other particulars as may be prescribed.

(4) Every application shall be accompanied by the prescribed licence fee.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the application is withdrawn or subsequently rejected.

Grant of
licence and
entry in
register.

6. On receipt of an application under section 5, the Assistant Registrar shall make necessary enquiry to satisfy himself about the *bonafides* and conduct of the applicant and shall forward the application together with his report, to the District Registrar. Subject to the provisions of this Act, the District Registrar may, after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, and direct the Assistant Registrar to enter the name

of such applicant in the register maintained by him under section 7 :

Provided that, the District Registrar shall grant such licence in the Scheduled Areas, after consultation with the *Gram Sabha* and the *Panchayat* concerned, and where the area of licence extends to more than one *Gram Sabha* or *Panchayat*, then all the concerned *Gram Sabhas* and *Panchayat Samitis* within whose area of jurisdiction the money-lender carries or intends to carry on the business of money-lending :

Provided further that, the decision taken by majority of the *Gram Sabhas* concerned by passing a resolution in any of the above matters shall be binding on the concerned *Panchayat Samiti*.

Explanation.— For the purposes of this section,—

(i) the expressions "*Gram Sabha*", "*Panchayat*" and "*Scheduled Areas*" shall have the meanings, respectively, assigned to them in the Maharashtra Village Panchayats Act;

(ii) the expression "*Panchayat Samiti*" shall have the meaning assigned to it in the Maharashtra Zilla Parishads and the Panchayat Samitis Act, 1961.

III of
1959.

Mah. V
of 1962.

7. Every Assistant Registrar shall maintain, for the area of his jurisdiction, a register of money-lenders in such form as may be prescribed.

Register of
money-
lenders.

8. (1) The grant of a licence shall not be refused except on any of the following grounds :—

Refusal of
issue of
licence.

(a) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence ;

(b) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence ;

(c) that the applicant has made willful default in complying with or knowingly acted in contravention of any requirement of this Act ;

(d) that satisfactory evidence has been produced before the District Registrar that the applicant or any person responsible or proposed to be responsible for the management of the business of money-lending has,—

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending ; or

(ii) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code.

45 of
1860.

(2) The District Registrar shall, before refusing a licence under sub-section (1), give to the applicant a reasonable opportunity of producing evidence, if any, in support of the application and of showing cause why the licence should not be refused ; and record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from the decision of the District Registrar refusing a licence under sub-section (1), to the Divisional Registrar, whose decision thereon shall be final.

(4) An appeal against the decision of the District Registrar under sub-section (1) may be filed within three months from the date of the decision:

Provided that, the Divisional Registrar may, for reasons to be recorded, entertain the appeal after the expiry of a period of three months from the date of decision of the District Registrar under sub-section (1), if he is satisfied that the appellant was prevented, for the reasons beyond his control, from filing the appeal within a period of three months.

Revisionary
powers of
Registrar
General.

9. The Registrar General may, *suo motu* or on an application, call for and examine the record of any enquiry or proceedings of any matter where the order has been passed or decision has been given by an officer subordinate to him, and no appeal lies against such decision or order for the purpose of satisfying himself as to the legality and propriety of the decision or order and as to the regularity of the proceedings. If during the course of such inquiry, the Registrar General is satisfied that the decision or order so called for should be modified, annulled or reversed, he may, after giving a person likely to be affected thereby an opportunity of being heard, pass such order thereon as he may seem just.

Term of
licence.

10. A licence shall be valid from the date on which it is granted to the 31st day of March following:

Provided that, where an application for renewal of licence has been received by the Assistant Registrar within the prescribed period, the licence shall, until the application is finally disposed of, be deemed to be valid.

District
Registrar's
power to
cancel licence.

11. (1) The District Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might, under section 8, have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(2) Before cancelling a licence under sub-section (1), the District Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the District Registrar cancelling a licence under sub-section (1), to the Divisional Registrar whose decision thereon shall be final.

(4) An appeal against the order of the District Registrar under sub-section (1) may be filed within three months from the date of the order:

Provided that, the Divisional Registrar may, for the reasons to be recorded, entertain the appeal after the expiry of the period of three months from the date of the order of the District Registrar under sub-section (1), if he is satisfied that the appellant was prohibited, for the reasons beyond his control, from filing the appeal within the period of three months.

Levy of
inspection fee.

12. (1) An inspection fee shall, in addition to the licence fee leviable under section 5, be levied on a money-lender applying for a renewal of a licence at the rate of one per cent. of the maximum capital utilized by him during the period of licence sought to be renewed or rupees one hundred, whichever is more.

(2) An application for renewal of a licence shall not be allowed unless the inspection fees under sub-section (1) is paid.

Explanation.—For the purposes of this section, “ maximum capital ” means the highest total amount of the capital sum which may remain invested in the money-lending business on any day during the period of licence.

13. (1) No court shall pass a decree in favour of a money-lender in any suit unless the court is satisfied that at the time when the loan or any part thereof, to which the suit relates was lent, the money-lender held a valid licence, and if the court is satisfied that the money-lender did not hold a valid licence, it shall dismiss the suit. Suits by money-lenders not holding licence.

3 of
1909.
5 of
1920.
1 of
1956.
18 of
2013.

(2) Nothing in this section shall affect the powers of a Court of Wards, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency Towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920 or any other law in force corresponding to that Act, or of a liquidator under the Companies Act, 1956, or the Companies Act, 2013, as the case may be, to realise the property of a money-lender.

14. (1) Any person may, during the validity of a licence, file an application to the District Registrar for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the District Registrar may under section 8, refuse him the grant of a licence. At the time of filing his application, the said person shall deposit such amount not exceeding Rs. 100, as the District Registrar may deem fit. Application for cancellation of licence.

(2) On the receipt of such application and deposit or of a report to that effect from an officer acting under section 16, the District Registrar shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct, he may cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (1).

(3) If in the opinion of the District Registrar an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (1), direct to be paid to the money-lender such amount as he deems fit as compensation.

5 of
1908.

15. For the purposes of sections 6 and 16, the Registrar General, Divisional Registrar, District Registrar, Assistant Registrar and the officer authorized under section 16; and for the purposes of section 14, the District Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :— Registrar General and his subordinates to have powers of Civil Court.

- (a) enforcing the attendance of any person and examining him on oath ;
- (b) compelling the production of documents and material objects ;
- (c) issuing commissions for the examination of witnesses ; and
- (d) proof of facts by affidavits.

16. For the purpose of verifying, whether the business of money-lending is carried on in accordance with the provisions of this Act, Registrar General, Divisional Registrar, District Registrar and Assistant Registrar or any other officer authorized by the State Government in this behalf may require any money-lender or any person in respect of whom the Registrar General, Divisional Registrar, District Registrar and Assistant Registrar or the officer authorized by him, has reason to believe that he is carrying on the business of money-lending in the State, to produce any record or documents in his possession which in his opinion is relevant for the Power of authorized officer to require production of records or documents.

purpose and thereupon such money-lender or person shall produce such record or documents. The Registrar General, Divisional Registrar, District Registrar and Assistant Registrar or officer so authorized may, after reasonable notice, at any reasonable time enter and search without warrant any premises where he believes such record or documents to be kept and inspect such record or documents and may ask any question necessary for interpreting or verifying such record.

Disposal of
property
pledged with
money-lender
carrying on
business of
money-
lending
without valid
licence.

17. (1) If upon the inspection of record and documents made under section 16, the inspecting officer is satisfied that the money-lender is in possession of property pledge to him by a debtor as security for the loan advanced by money-lender in the course of his business of money-lending without a valid licence, the inspecting officer shall require the money-lender to deliver forthwith the possession of such property to him.

(2) Upon the property being delivered to him, the inspecting officer, if he is not the District Registrar, shall entrust it to the District Registrar and the District Registrar (when he is also the inspecting officer) shall keep it in his custody for being disposed of as hereinafter provided.

(3) On delivery of the property under sub-section (1) or sub-section (2), the District Registrar shall, after due verification and identity thereof, return it to the debtor who has pledge it or, where the debtor is dead, to his known heirs.

(4) If the debtor or his known heirs cannot be traced, the District Registrar shall, within ninety days from the date of taking possession of the property, publish a notice in the prescribed manner inviting claims thereto. If, before the expiry of the said period, a claim is received, whether in answer to the notice or otherwise, he shall adjudicate upon and decide such claim. If the District Registrar is satisfied that any claim is valid, he shall deliver the possession of the property to the person claiming it on his giving a receipt therefor; and such delivery of the property to the person claiming it shall discharge the District Registrar of his liability in respect of such property against any other person. If the claim is refused, the property shall stand forfeited to the State Government.

(5) Whether the possession of the property pledged by a debtor cannot, for any reason (including identity thereof) be delivered to him, then the money-lender to whom it was pledged shall be required to pay to the debtor or if he is dead, to his known heir, the value of such property if such debtor or, as the case may be, the heir claims the property. If the money-lender fails to pay the value, it may be recoverable from him as an arrear of land revenue; and on recovery of the value, it shall be delivered to the debtor by whom such property was pledged or, as the case may be, to the heir.

(6) If there is any difference of opinion between the money-lender and the debtor or, as the case may be, his heir on the question of value of the property or its identity, the question shall be referred to the Divisional Registrar for decision and his decision on the question shall be final.

(7) The value of the property may be determined with the assistance of the services of an expert appointed by the State Government in that behalf. The expert may be paid such honoraria as the State Government or any officer not below the rank of Tahsildar appointed by it may, by an order in writing, from time to time, in relation to any area or areas, determined.

18. (1) If, on the basis of facts disclosed, during verification under section 16 or inspection under section 17, or by an application from a debtor or otherwise, the District Registrar has reason to believe that any immovable property, which has come in possession of the money-lender by way of sale, mortgage, lease, exchange or otherwise, within a period of five years from the date of verification or the inspection or the date of receipt of application from debtor, in the nature of the property offered by the debtor to the money-lender as a security for loan advanced by the money-lender in course of money-lending, the District Registrar may, himself or through an inquiry and inquiry officer, to be appointed for the purpose, in the manner prescribed, hold further inquiry into the nature of the transaction.

Return of immovable property acquired in course of money-lending.

(2) If upon holding the inquiry as per sub-section (1), the District Registrar is satisfied that the immovable property came in possession of the money-lender as a security for loan advanced by the money-lender during the course of money-lending, the District Registrar may, notwithstanding anything contained in any other law for the time being in force, after recording the reasons, declare the instrument or conveyance as invalid and may order restoration of possession of the property to the debtor who has executed the instrument or conveyance as a security or to his heir or successor, as the case may be.

(3) Before passing an order or giving decision as per sub-section (2), the District Registrar shall give an opportunity to the person concerned to state his objections, if any, within fifteen days from the date of receipt of notice by him and may also give personal hearing, if he so desires.

(4) Any person aggrieved by the order or decision of the District Registrar under sub-section (2) may, within one month from the date of order or decision, appeal to the Divisional Registrar :

Provided that, the Divisional Registrar may admit the appeal after expiry of the period of one month, if the appellant satisfies him that he had sufficient cause for not preferring the appeal within the period.

(5) The order passed by the Divisional Registrar in appeal preferred under sub-section (4) shall be final.

(6) Subject to the appeal provided under sub-section (4), the order passed or decisions given by the District Registrar under sub-section (2), shall be sufficient conveyance and it shall be the duty of every officer entrusted with the work relating to maintenance of land records under the Maharashtra Land Revenue Code, 1966, or under any other law for the time being in force, to give effect to such order in his records.

Mah.
XLI of
1966.

19. (1) (i) A Court passing an order of conviction against a money-lender for an offence under this Act, or
(ii) a Court trying a suit, if satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the money-lending, —

Court's power to cancel or suspend licence.

(a) may order that all the licences held by such money-lender in the State be cancelled or suspended for such time as it may think fit, and

(b) may, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the money-lending carried on by such

family, company or body, to be disqualified from holding any licence in the State, for such time as the Court may think fit :

Provided that, where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section, he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order, and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(2) Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration, under sub-clause (a) or (b) of clause (ii) of sub-section (1), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the District Registrar by whom the licences were granted for the purpose of entering such particulars in the registers.

(3) Any licence required by a Court for endorsement in accordance with sub-section (2) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine not exceeding rupees one thousand for each day for the period during which the default continues.

(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

No compensation for suspension or cancellation of licence.

20. Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee or inspection fee.

Persons debarred from doing money-lending during period of suspension or cancellation of licence.

21. A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified for carrying on business of money-lending in the State.

Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.

22. No person whose licence has been endorsed under section 19 or who has been disqualified from holding a licence shall apply for, or be eligible to hold, a licence, without giving particulars of such endorsement or disqualification.

Promissory note, Bond, etc., to be factual.

23. No money-lender shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled in after execution, without mentioning the date and amount of loan.

24. (1) Every money-lender shall keep and maintain a cashbook and a ledger in such form and in such manner as may be prescribed.

Duty of money-lender to keep accounts and furnish copies.

(2) Every money-lender shall,—

(a) deliver or cause to be delivered,—

(i) to the debtor within thirty days from the date on which a loan is made, a statement in any recognized language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged:

Provided that, no such statement shall be required to be delivered to a debtor, if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up to date account of the transactions with the debtor;

(ii) to the Assistant Registrar within the said period a statement containing the particulars referred to in sub-clause (i);

(b) upon repayment of the loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or re-assign every assignment given by the debtor as security for the loan.

(3) Notwithstanding anything contained in sub-clause (ii) of clause (a) of sub-section (2), the State Government may, by an order in writing, permit such class of money-lenders as may be specified in the order to deliver or cause to be delivered to the Assistant Registrar a statement containing the particulars referred to in sub-clause (i) of clause (a) of sub-section (2) in respect of all loans made during every such period as may be specified in the order, and upon the issue of such order a money-lender electing to deliver a periodical statement as provided in this sub-section, shall deliver or cause to be delivered the same within a period of thirty days from the date of expiry of every such period.

(4) No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for such payment.

(5) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed. The money-lender shall maintain the duplicates of such receipts in a separate register.

25. (1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's account signed by the money-lender or his agent of any account that may be outstanding against such debtor. The statement shall show,—

Delivery of statements of accounts and copies thereof by money-lenders.

(i) the amount of principal, the amount of interest and the amount of fees referred to in section 26, separately, due to the money-lender at the beginning of the year ;

(ii) the total amount of loans advanced during the year ;

(iii) the total amount of repayments received during the year ; and

(iv) the amounts of principal and interest due at the end of the year.

The statement shall be signed by the money-lender or his agent, and shall be in any recognized language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed:

Provided that, no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up to date account of the transactions with the debtor.

The money-lender shall on or before the aforesaid date deliver or cause to be delivered a statement containing the particulars specified in clauses (i) to (iv) to the Assistant Registrar.

(2) In respect of any particular loan, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand, a statement, in any recognized language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (1) within fifteen days from the date of application by the debtor.

(3) A money-lender shall, on demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.

(4) For the purpose of this section, "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books.

Fees for certain statements supplied to debtors and Assistant Registrar.

26. (1) A money-lender may recover from a debtor fees for the pass book supplied to him under sub-section (2) of section 24 or in respect of copies of statements supplied to him under sub-section (3) of section 24 or statement of accounts supplied to him under sub-section (1) of section 25 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-section.

(2) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.

Debtor not bound to admit correctness of accounts.

27. A debtor to whom a pass book has been furnished under section 24 or a statement of accounts has been furnished under section 25, shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be admission of the correctness of the accounts.

Procedure of Court in suit regarding loans.

28. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies, filed by a money-lender against a debtor,—

(a) a Court shall before deciding the claim on merits, frame and decide the issues whether the money-lender has complied with the provisions of sections 24 and 25 ;

(b) if the Court finds, that the provisions of section 24 or section 25 have not been complied with by the money-lender, it may, if the plaintiffs' claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 24 or section 25, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

29. Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall, in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

Power of Court to limit interest recoverable in certain cases.

5 of 1908.

30. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court may at any time, on application of a judgment debtor, after notice to the decree holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of installments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment debtor and the amount of the decree, it considers fit.

Power of Court to direct payment of decretal amount by installment.

31. (1) The State Government may, from time to time, by notification in the *Official Gazette*, fix the maximum rates of interest to be charged by a money-lender in respect of secured loan and unsecured loan.

Limitation on rates of interest.

(2) No money-lender shall receive from a debtor or intending debtor any sum by way of compound interest on a loan advanced or intended to be advanced or any sum by way of interest at a rate higher than the rate fixed under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, a money-lender shall not charge or recover from any debtor, on account of interest, a sum greater than the amount of principal of loan whether advanced before or after commencement of this Act.

(4) Notwithstanding anything contained in any other law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at rates exceeding the maximum rates fixed by the State Government under sub-section (1) and no agreement in contravention of the provisions of sub-sections (2) and (3) shall be valid.

4 of 1882.

32. (1) No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents, and other usual out of pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed in writing to such costs and reimbursement thereof or where such cost, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

Prohibition of charge for expenses on loans by money-lenders.

(2) Any sum received by a money-lender in contravention of sub-section (1) from a debtor or intending debtor on account of costs, charges or expenses referred to in that sub-section shall be recoverable from the money-lender as debt due from him to the debtor or, as the case may be, intending debtor, or shall be liable to be set off against the loan actually lent to the debtor or intending debtor.

Assignment
of loans.

33. (1) Whether a loan advanced, whether before or after the date on which this Act comes into force, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made,—

(a) give the assignee a notice in writing that the loan, interest, agreement or security is affected by the operation of this Act ;

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and

(c) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(2) Any person acting in contravention of the provisions of sub-section (1), shall be liable to indemnify any other person who is prejudiced by such contravention.

Application of
Act as to
assignees.

34. (1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him, whether before or after the date on which this Act comes into force, or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he was the money-lender.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

Re-opening of
transactions.

35. Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, between the money-lender and the debtor, whether heard *ex-parte* or otherwise,—

(a) re-open any transaction, or any account already taken between the parties ;

(b) take an account between the parties ;

(c) reduce the amount charged to the debtor in respect of any excessive interest ;

(d) if on taking accounts it is found that the money-lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount :

Provided that, in the exercise of these powers, the Court shall not,—

(i) re-open any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit to which this Act applies ;

(ii) do anything which affects any decree of a Court.

Explanation.—For the purposes of this section, “excessive interest” means interest at a rate which contravenes any of the provisions of section 31.

36. (1) Any debtor may make an application at any time to Court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

Inquiry for taking accounts and declaring amount due.

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned, from time to time, the Court shall make an inquiry and shall, after taking any account of the transactions between the parties, pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section, the Court shall follow the provisions of sections 24 to 35 and section 38.

37. (1) A debtor may at any time tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

Deposit in Court of money due to money-lenders.

(2) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(3) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue, if any, towards the principal.

(4) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue, if any, towards the principal.

38. Notwithstanding any agreement between the parties or any law for the time being in force, when pass book is supplied under section 24 or the statement is delivered to the debtor under section 25 or if the accounts are taken under section 36 or a tender is made by debtor to a money-lender in respect of a loan under section 37 on any day of the calendar month, the interest due shall be calculated as payable upto the actual date of repayment irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken on any day of the calendar month.

Calculation of interest.

39. Whoever carries on the business of money-lending without obtaining a valid licence, shall, on conviction, be punished with imprisonment of either description for a term which may extend to five years or with fine which may extend to fifty thousand rupees or with both.

Penalty for doing money-lending without valid licence.

40. Whoever in an application for grant of licence or renewal of licence, or in any document required by, or for the purpose of, any of the provisions of this Act willfully makes a statement in any material particulars knowing it to be false, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to twenty-five thousand rupees or with both.

Penalty for making false statement.

Obtaining
licence under
fictitious
name,
carrying on
money-
lending at a
place not
mentioned in
licence, etc.

41. Whoever,—

(a) obtains a licence in the name which is not his true name or carries on the business of money-lending under the licence so obtained ; or

(b) carries on the business of money-lending at any place not mentioned in the licence authorizing him to carry on such business ; or

(c) enters into any agreement in the course of business of money-lending without a valid licence, or under a licence obtained in the name which is not his true name, shall, on conviction, be punished,—

(i) for the first offence, with imprisonment of either description which may extend to one year or with fine which may extend to rupees fifteen thousand or with both, and

(ii) for the second and subsequent offence, in addition to or in lieu of, the penalty specified in clause (i), with imprisonment of either description which shall not be less than five years, where such person is not a company, and with fine which shall not be less than rupees fifty thousand, where such person is a company.

Penalty for
wrong entry in
promissory
note, Bond
etc.

42. Whoever contravenes the provisions of section 23 shall, on conviction, be punished with fine which may extend to twenty-five thousand rupees or with imprisonment of either description which may extend to three years or with both.

Penalty for
contravention
of section 24
or 25.

43. Whoever contravenes the provisions of section 24 or 25 shall, on conviction, be punished with fine which may extend to twenty-five thousand rupees.

Penalty for
charging rate
of interest in
contravention
of section 31.

44. Whoever charges or recovers interest in contravention of section 31, shall, on conviction, be punished with fine which may extend to twenty-five thousand rupees, if it is first offence and with fine up to fifty thousand rupees, for the second or subsequent offence.

Penalty for
molestation.

45. Whoever molests, or abets the molestation, of a debtor for the recovery of a debt due by him to money-lender shall, on conviction, be punished with imprisonment of either description which may extend to two years or with fine which may extend to five thousand rupees, or with both.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing,—

(a) obstructs or uses violence to or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned, or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters near a house or other place where such other person resides or works, or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person,

shall be deemed to molest such other person.

General
provisions
regarding
penalties.

46. Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable,—

(a) for the first offence with imprisonment of either description which may extend to one year or with fine which may extend to twenty-five thousand rupees, or with both ; and

(b) for the second or subsequent offence, with imprisonment of either description which may extend to two years or with fine which may extend to ten thousand rupees, or with both.

47. If the person contravening any of the provisions of this Act is an undivided Hindu family or a company or an unincorporated body, the person responsible for the management of the business of such family, company or body shall be deemed to be guilty of such contravention.

Offences by corporations, etc.

2 of 1974.

48. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offence punishable under,—

Certain offences to be cognizable.

(a) sections 39 and 41, for contravening provisions of section 4, and

(b) section 42, for contravening provisions of section 23, and

(c) section 45, for molestation,

shall be cognizable.

49. Notwithstanding anything contained in any other law for the time being in force, no debtor who cultivates land personally and whose debts does not exceed fifteen thousand rupees shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force.

No arrest and imprisonment in execution of decree for money against agricultural debtors.

LXVII of 1948.

Explanation.— The expression “to cultivate personally” shall have the meaning assigned to it in clause (6) of section 2 of the Maharashtra Tenancy and Agricultural Lands Act or any corresponding Act.

45 of 1860.

50. Every officer of the Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Every officer to be public servant.

51. No suit, prosecution or other legal proceedings shall lie against the Registrar General, or any authority for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

Protection of action taken in good faith.

XXVIII of 1947.

52. Nothing in this Act shall affect any of the provisions of the Maharashtra Agricultural Debtors Relief Act or of any other law relating to relief of agricultural indebtedness in force corresponding to that Act, and no Court shall entertain or proceed under this Act with any suit or proceedings relating to any loan in respect of which debt adjustment proceedings can be taken under the said Act, or, as the case may be, the said law.

Provisions of XXVIII of 1947 saved.

53. The State Government may, by notification in the *Official Gazette*, delegate to any officer any of the powers conferred on it by or under this Act.

Power of State Government to delegate its powers.

54. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters :—

(a) the form of the application for a licence, the further particulars to be included therein and the amount of and the manner for payment of licence fee under section 5 ;

- (b) the form and conditions of the licence under section 6 ;
- (c) the form of the register under section 7 ;
- (d) the manner of publishing a notice under sub-section (4) of section 17 for inviting claims to property pledged with a money-lender ;
- (e) the form of cash book and ledger and the manner in which they should be maintained under sub-section (1), the form of passbook to be furnished under sub-section (2) and the other particulars to be prescribed under sub-section (5) of section 24 ;
- (f) the form of the statement of accounts under sub-section (1), the sum of expenses to be paid under sub-section (3) of section 25 ;
- (g) the fees to be paid under sub-section (2) of section 26 ;
- (h) the form of application and the fee to be paid under sub-section (1) of section 36 ;
- (i) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act ;
- (j) a provision that the contravention of any of the rules shall be an offence and shall punishable with fine not exceeding such amount as may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to
remove
difficulty.

55. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature.

Repeal of
Bom. XXXI of
1947 and
saving.

56. (1) The Bombay Money-Lenders Act, 1946, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act (including any licence issued) shall be deemed to have been done, taken or issued, as the case may be under this Act.

Bom.
XXXI of
1947.

Repeal of
Mah. Ord. I of
2014 and
saving.

57. (1) The Maharashtra Money-Lending (Regulation) Ordinance, 2014, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance (including any licence issued) shall be deemed to have been done, taken or issued, as the case may be, under this Act.

Mah.
Ord. I of
2014.

STATEMENT OF OBJECTS AND REASONS

The harassment to the farmers-debtors at the hands of money-lenders, resulting in the frequent suicides by the farmers was a matter of great concern. The then existing enactment on money-lending, namely the Bombay Money-Lenders Act, 1946 (Bom. XXXI of 1947) was found to be too inadequate to prevent the harassment to the farmers-debtors by the money-lenders. Various Committees appointed by the State Government to study the reasons for farmers' suicides have submitted their reports, which, *inter alia*, pointed out that harassment by money-lenders is a major reason for such suicides. With a view to effectively prevent the harassment of farmers-debtors at the hands of money-lenders, it had become expedient for the Government to make a new law to regulate the transactions of money-lending in the State by repealing the then existing Bombay Money-Lenders Act, 1946 (Bom. XXXI of 1947).

2. Accordingly, the Maharashtra Money-Lending (Regulation) Bill, 2010 (L. A. Bill No. XLIX of 2010) was introduced and has been passed by both Houses of the State Legislature. The said Bill was forwarded to the Union Ministry of Home Affairs being nodal Ministry for the purpose and is under consideration for the Hon'ble President's Assent. The Union Ministry of Finance (Department of Financial Services) through the Ministry of Home Affairs had made certain suggestions in respect of the definition clause of the said Bill to explicitly provide that the provisions of the said Bill shall not apply to the Non-Banking Financial Companies and the Reserve Bank of India regulated under the Reserve Bank of India Act, 1934, so also to the Co-operative Societies and the Co-operative Banks regulated under the Banking Regulation Act, 1949 as well as to the Regional Rural Banks regulated under the Regional Rural Banks Act, 1976. Obviously, such institutions are governed by the Central laws made under the Union List. However, as insisted by the Union Home Ministry, on the recommendation of the Union Ministry of Finance, such explicit provisions were incorporated. It was considered expedient to bring such law into force with immediate effect by promulgating an Ordinance.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to make a law, for the purposes aforesaid, and therefore, promulgated the Maharashtra Money-Lending (Regulation) Ordinance, 2014 (Mah. Ord. I of 2014), on the 16th January 2014.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 18th February 2014.

HARSHAVARDHAN PATIL,
Minister for Co-operation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

*Clause 2 .—*Under this clause, power is taken to the State Government, under sub-clause (14) (iv) (b) (xi), to specify, by notification in the *Official Gazette*, any banking or financial institution which shall not be included within the definition of the term money-lender.

*Clause 3 .—*Under this clause, power is taken to the State Government,—

(a) under sub-clause (1), to appoint, by notification in the *Official Gazette*, the Registrar General of Money-Lending and such number of Divisional Registrars, District Registrars and Assistant Registrars as it may think proper;

(b) to specify, by order, the area of the District, to which the Assistant Registrar shall have jurisdiction.

*Clause 5 .—*Under this clause, power is taken to the State Government to prescribe, by rules,—

(a) under sub-clause (1), the date on which every money-lender shall make annually an application for licence to the Assistant Registrar and the form of application for the grant of licence;

(b) under sub-clause (3), the other particulars as may be contained in the application ;

(c) under sub-clause (4), the amount of licence fee to be accompanied with every application ; and

(d) under sub-clause (5), the manner of payment of the fees.

*Clause 6 .—*Under this clause, power is taken to the State Government to prescribe, by rules, the form of licence and the conditions subject to which the licence may be granted by the District Registrar.

*Clause 7 .—*Under this clause, power is taken to the State Government to prescribe, by rules, the form in which the register of money-lenders shall be kept by the Assistant Registrar.

Clause 17(4) .—Under this clause, power is taken to the State Government to prescribe, by rules, the manner in which the District Registrar shall publish a notice inviting claims to the property which came in his possession.

Clause 18(1).—Under this clause, power is taken to the State Government to prescribe, by rules, the manner in which the further enquiry into the nature of the transactions may be held by the District Registrar or through an enquiry officer, to be appointed for the purpose.

Clause 24.—Under this clause, power is taken to the State Government to prescribe, by rules,—

(a) under sub-clause (1), the form and manner in which every money-lender shall keep and maintain a cash-book and a ledger ;

(b) under proviso to sub-clause (2) (a)(i), the form in which a pass book which may be supplied to the debtor ;

(c) under sub-clause (5), the other particulars which shall be specified in the receipts of any article accepted from the debtor by money-lender as a pawn, pledge or security for a loan.

Clause 25.—Under this clause, power is taken to the State Government to prescribe, by rules,—

(a) under sub-section (1), the form of debtor's accounts and the date on or before which such accounts shall be supplied to the debtor as also the form of pass book which may be supplied to the debtor ;

(b) under sub-section (2), the fee that may be charged by the money-lender for supply of a statement in any recognized language ;

(c) under sub-section (3), the sum on payment of which the debtor shall be supplied with a copy of any document relating to a loan made by him or any security therefor to the debtor.

Clause 26 (2).—Under this clause, power is taken to the State Government to prescribe, by rules, the rates at, and the manner in which, the fees to be recovered for supplying statement to the debtor.

Clause 31(1).—Under this clause, power is taken to the State Government to fix, from time to time, by a notification in the *Official Gazette*, the maximum rates of interest to be charged by a money-lender in respect of secured loan and unsecured loan.

Clause 36(1).—Under this clause, power is taken to the State Government to prescribe, by rules, the form of application to be made by the debtor to Court, for taking accounts and for declaring the amount due to the money-lender and the amount of fee for such application.

Clause 53.—Under this clause, power is taken to the State Government to delegate to any officer, by order published in the *Official Gazette*, any of the powers conferred on it by or under this Act.

Clause 54(1).—Under this clause, power is taken to the State Government to make the rules, by notification in the *Official Gazette*, for carrying out the purposes of this Act.

Clause 55(1).—Under this clause, power is taken to the State Government to issue an order for removing any difficulty which may arise in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

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सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Entertainments Duty (Amendment) Bill, 2014 (L. A. Bill No. II of 2014), introduced in the Legislative Assembly on the 24th February 2014, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L.A. BILL No. II OF 2014.

A BILL

further to amend the Maharashtra Entertainments Duty Act.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Entertainments Duty Act, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Entertainments Duty (Amendment) Ordinance, 2014 on the 10th February 2014 ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows:—

Short title and commencement. 1. (1) This Act may be called the Maharashtra Entertainments Duty (Amendment) Act, 2014.

(2) It shall be deemed to have come into force on the 10th February 2014.

Amendment of section 2 of I of 1923. 2. In section 2 of the Maharashtra Entertainments Duty Act I of 1923. (hereinafter referred to as "the principal Act"),—

(i) after clause (a-a1), the following clauses shall be inserted, namely:—

"(a-a2) "cable operator" means any person or a company registered as a cable operator and has also been registered as a Multi-System Operator for a notified area as per the provisions of the Cable Television Networks (Regulation) Act, 1995 and re-7 of 1995. transmits digital television signal installed for exhibition of films or moving pictures or series of pictures to subscriber's television sets at the residential or non-residential places;

(a-a3) "local cable operator" means any person or a company who accepts digital television signal from Multi-System Operator and re-transmits at the residential or non-residential places on payment by a subscriber;";

(ii) after clause (a-a), the following clause shall be inserted, namely:—

"(a-ab) "Multi-System Operator" means a cable operator who receives a programming service from a broadcaster or its authorised agencies and re-transmits the same or transmits his own programming service, for simultaneous reception either by multiple subscribers directly or through one or more local cable operators and includes his authorised distribution agencies, by whatever name called;";

(iii) sub-clause (v) of clause (c) shall be deleted.

Amendment of section 3 of I of 1923. 3. In section 3 of the principal Act, the existing sub-section (4) shall be re-numbered as clause (a) thereof; and after clause (a) as so re-numbered, the following clauses shall be inserted, namely:—

"(b) Notwithstanding anything contained in sub-section (2) or in any other provisions of this Act, there shall be levied, and paid by the Multi-System Operator to the State Government, the entertainments duty at the rate specified in the table below, per television set which receives radio frequency signals for exhibition of films or moving pictures or series of pictures with the aid of any type of antenna or any other apparatus for securing transmission through cable network or cable television attached to it or through Internet Protocol Television.

(c) The local cable operator shall recover the entertainments duty from the connection holders and shall handover the same to the Multi-System Operator, within a time, where the Multi-System Operator is registered, or pay directly to the State Government where the Multi-System Operator is not registered, however, the entertainments duty shall be levied on the television sets which receives the radio frequency signals through pre-activated and activated set top box at the rate specified in the table below.

(d) For securing levy, recovery and payment of the entertainments duty payable under clauses (b) and (c), the Multi-System Operator or cable operator shall furnish to the Collector of District, such security deposit and such information, as may be prescribed.”.

4. In section 5 of the principal Act, for the words “be liable in respect of each offence to a fine of not less than rupees five hundred and not more than one thousand” the words “a fine not less than rupees twenty-five thousand for each offence or five times of the revenue loss, whichever is higher” shall be substituted. Amendment of section 5 of I of 1923.

5. In section 7 of the principal Act, after clause (c), the following clause shall be inserted, namely :— Amendment of section 7 of I of 1923.

“(ca) for prescribing the amount and manner of furnishing a security deposit and also the form in which the information is to be furnished to the Collector under clause (d) of sub-section (4) of section 3 ;”.

6. (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Entertainments Duty Act, as amended by this Ordinance, the State Government may, as occasion arises, by an order published in the *Official Gazette*, give such directions not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty: Power to remove difficulties.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

7. (1) The Maharashtra Entertainments Duty (Amendment) Ordinance, Mah. Ord. IV of 2014, is hereby repealed. Mah. Ord. IV of 2014.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Entertainments Duty Act (I of 1923), provides for the levy and collection of entertainments duty on different types and forms of entertainments including cable television. Section 3 of the said Act *inter alia* provides for rates of entertainment duty payable on cable television in the State.

2. The Cable Television Network (Regulation) Act, 1995 (7 of 1995) regulates the operation of cable television networks in the country. The television transmission is being made mandatory through digital addressable system *via* set top box in different areas of the country in phased manner. Accordingly, in the State of Maharashtra, the cable digitalization *via* set top box has been made mandatory in three phases, *i.e.* by 31st October 2012 for Mumbai and Mumbai Suburban district, by 31st March 2013 for the cities having population more than ten lakh and by 31st December 2014 in remaining area of the State.

3. As, after digitalization *via* set top box, the role of Multi-System Operators and Cable Operators being vital, the Government of Maharashtra, considered it expedient to bring the Multi-System Operators and Cable Operators within the purview of the Maharashtra Entertainments Duty Act to hold them responsible for levy, recovery and payment of entertainments duty to the Government. For that purpose it was proposed to amend sections 2, 3 and 7 of the Maharashtra Entertainments Duty Act. With a view to secure better compliance, it was proposed to enhance the quantum of fine, from existing not less than rupees five hundred and not more than rupees one thousand to rupees twenty-five thousand or five times of revenue loss, whichever is higher, by amending section 5 of the said Act.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Entertainments Duty Act (I of 1923), for the purposes aforesaid, the Maharashtra Entertainments Duty (Amendment) Ordinance, 2014 (Mah. Ord. IV of 2014), was promulgated by the Governor of Maharashtra on the 10th February 2014.

5. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 18th February 2014.

BALASAHEB THORAT,
Minister for Revenue.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 3.—Under this clause, power is taken to the State Government to prescribe security deposit and information to be furnished by the Multi-System Operator or Cable Operator to the Collector of District, as per clause (d) to be inserted in sub-section (4) of section 3 of the Maharashtra Entertainments Duty Act.

Clause 5.—Under this clause, power is taken to the State Government to prescribe the amount and manner of furnishing a security deposit and also the form in which the information is to be furnished to the Collector of District under clause (d) of sub-section (4) of section 3 of the Maharashtra Entertainments Duty Act.

Clause 6.—Under this clause, power is taken to the State Government to remove, by an order published in the *Official Gazette*, any difficulty arising in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill proposed to amend sections 2, 3 and 7 of the Maharashtra Entertainments Duty Act with a view to bring the cable operators and Multit-System Operators within the purview of the said Act to hold them responsible for levy, recovery and payment of entertainments duty to the State Government. With a view to secure better compliance of the said Act, it is proposed to enhance the quantum of fine by amending section 5 of the said Act. Thus, there is no provision in the Bill involving any recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

१४

सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Police (Amendment) Bill, 2014 (L.A. Bill No. III of 2014), introduced in the Maharashtra Legislative Assembly on the 24th February 2014 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. III OF 2014.

A BILL

further to amend the Maharashtra Police Act.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Police Act, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Police (Amendment) Ordinance, 2014, on the 1st February 2014;

XXII of
1951.
Mah.
Ord. III
of 2014.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Police (Amendment) Act, 2014.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the 1st February 2014.

Amendment
of section 2 of
XXII of 1951.

2. In section 2 of the Maharashtra Police Act (hereinafter referred to as "the principal Act"),— XXII of 1951.

(a) after clause (1), the following clause shall be inserted, namely:—

"(1A) "Competent Authority" means the Competent Authority mentioned in section 22N;";

(b) after clause (6), the following clauses shall be inserted, namely:—

"(6A) "General Transfer" means posting of a Police Personnel in the Police Force from one post, office or Department to another post, Office or Department in the month of April and May of every year, after completion of normal tenure of two years;

(6B) "Mid-term Transfer" means transfer of a Police Personnel in the Police Force other than the General Transfer;";

(c) after clause (10), the following clause shall be inserted, namely:—

"(10A) "Police Establishment Board No. 1", "Police Establishment Board No. 2", "Police Establishment Board at Range Level" and "Police Establishment Board at Commissionerate Level" means the Boards constituted under sections 22C, 22E, 22G and 22I, respectively;";

(d) after clause (11), the following clauses shall be inserted, namely:—

"(11A) "Police Personnel" means any member of the Police Force appointed or deemed to be appointed under this Act;

(11B) "post" means any post created on the establishment of Director General and Inspector General of Police and includes the posts assigned for Police Personnel on State or Central deputation;";

(e) after clause (14), the following clauses shall be inserted, namely:—

"(14A) "section" means section of this Act;

(14B) "State Government" means the Government of Maharashtra;

(14C) "State Police Complaints Authority" and "Division Level Police Complaints Authority" means the Authorities constituted under sections 22P and 22S, respectively;

(14D) "State Security Commission" means the State Security Commission constituted under section 22B;";

Amendment of
section 6 of
XXII of 1951.

3. In section 6 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) The Director General and Inspector General of Police shall be selected by the State Government from amongst the four senior-most Police Officers from the Cadre, on the basis of their length of service, very good record, range of experience, integrity and professional ability for heading the Police Force.

(1B) Once appointed, the Director General and Inspector General of Police shall have a minimum tenure of at least two years, subject to his age of superannuation. The Director General and Inspector General of Police may, however, be relieved of his responsibility by the State Government consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules, 1969 or following his conviction in a court of law or in a case of corruption, or guilty of gross dereliction of his duty or if he is otherwise incapacitated from discharging his duty."

4. After section 22A of the principal Act, the following Chapter shall be inserted, namely :—

Insertion of Chapter II-A in XXII of 1951.

“CHAPTER II-A
STATE SECURITY COMMISSION, POLICE ESTABLISHMENT
BOARDS AND POLICE COMPLAINTS AUTHORITIES.

22B. (1) The State Government shall, by notification in the *Official Gazette*, constitute a State Security Commission for the purpose of exercising such powers and performing such functions as may be assigned to the Commission under this Act.

State Security Commission.

(2) The State Security Commission shall consist of the following members, namely :—

- | | |
|---|-------------------------------------|
| (a) Minister in-charge of Home Department | ... <i>Ex-Officio</i> Chairperson ; |
| (b) Leader of Opposition of State Legislative Assembly | ... Member ; |
| (c) Chief Secretary | ... Member ; |
| (d) Additional Chief Secretary (Home) | ... Member ; |
| (e) Five non-official Members (to be nominated by the State Government) | ... Member ; |
| (f) Director General and Inspector General of Police | ... Member-Secretary. |

(3) On the Constitution of the State Security Commission under sub-section (1), the erstwhile State Security Commission constituted by the Home Department under the Government Resolution, dated the 10th July 2013 shall cease to exist :

Provided that, the recommendations and reports made by the erstwhile State Security Commission shall continue to operate as if the same are made by the State Security Commission constituted under this Act.

(4) No person shall be nominated as a non-official member of the State Security Commission if he,—

- (a) is not a Citizen of India ; or
- (b) has been convicted by a court of law or against whom criminal charges have been framed by a court of law ; or
- (c) has been dismissed or removed from the Government service, Semi-Government or private service or compulsorily retired on the grounds of corruption or inefficiency or moral turpitude or any kind of misconduct ; or
- (d) has been debarred from holding any public office or from contesting any election ; or
- (e) holds or has held any political office, including that of member of Parliament or State Legislature or a local body, or is or was an office-bearer of any political party or any organization connected with a political party ; or
- (f) is of unsound mind.

(5) While nominating non-official members under clause (e) of sub-section (2), care must be taken to ensure that the representation be given to all sections of the society. Out of the members so nominated, at

least one shall be a woman and one shall be from the persons belonging to the Backward Class. The non-official members may be broadly from the following disciplines :—

- (a) academician, liberal arts, communication or media ;
- (b) science and technology especially in the field of Information Technology, surveillance or security related technology ;
- (c) eminence in the legal field ;
- (d) corporate governance;
- (e) non-Government organizations working in the field of women and child development, social justice, tribal development, rural development or urban development.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, Denotified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

(6) The non-official members nominated under clause (e) of sub-section (2) may be removed by the Chairperson of the State Security Commission on any of the following grounds, namely :—

- (a) proven incompetence ;
- (b) proven misbehaviour or misuse or abuse of powers ;
- (c) failure to attend three consecutive meetings of the State Security Commission without sufficient cause :

Provided that, no member shall be removed under the provisions of this clause except after giving him a reasonable opportunity of being heard ;

- (d) incapacitation by reason of mental infirmity ;
 - (e) otherwise becoming unable to discharge his functions as a member;
- or

(f) conviction by a court of law or where charges have been framed against him by a court of law.

(7) The term of office of the non-official members of the State Security Commission shall be of two years. The other terms and conditions of such office shall be such as may be prescribed by the State Government.

(8) The State Security Commission shall exercise the powers and perform the functions as follows :—

- (a) lay down the broad policy guidelines for the functioning of the Police Force in the State including for ensuring that the Police Force always act according to the laws of the land and the Constitution of India ;
- (b) formulating broad principles for the performance of the preventive tasks and service oriented functions of the Police Force ; and
- (c) evaluation of the performance of the Police Force.

(9) The State Security Commission shall meet at least once in every quarter at such time and place and observe such procedure in regard to transact its business as the Chairperson thinks fit.

(10) The recommendations of the State Security Commission shall be advisory in nature.

22C. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board No. 1.

(2) The Police Establishment Board No.1 shall consist of the following members, namely :—

- | | | |
|---|-----|--------------------|
| (a) Additional Chief Secretary (Home) | ... | Chairperson ; |
| (b) Director General and Inspector General of Police | ... | Vice-Chairperson ; |
| (c) Director General, Anti-Corruption Bureau | ... | Member ; |
| (d) Commissioner of Police, Mumbai | ... | Member ; |
| (e) Additional Director General and Inspector General of Police (Establishment) | ... | Member-Secretary : |

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Additional Director General and Inspector General of Police belonging to such Class.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, Denotified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

22D. The Police Establishment Board No. 1 shall perform the following functions, namely :—

(1) Subject to the provisions of this Act, the Board constituted under sub-section (1) of section 22C may, make appropriate recommendations to the State Government regarding the service conditions of Police Officers excluding salary and allowances.

(2) In particular and without prejudice to the generality of the foregoing functions, the Board may perform all or any of the following functions, namely :—

(a) to advise and make recommendations to the State Government regarding the posting and transfer of Police Officers;

(b) to make appropriate recommendations to the State Government in respect of grievances received by the said Board from Police Officers regarding their promotions, disciplinary proceedings and other service matters.

(3) The Board shall perform such other functions as may be assigned to the Board by the State Government, from time to time.

Explanation.—For the purposes of this section, the expression “Police Officer” means a Police Officer of and above the rank of Deputy Superintendent of Police.

22E. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board No. 2.

(2) The Police Establishment Board No. 2 shall consist of the following members, namely:—

- | | | |
|--|-----|---------------|
| (a) Director General and Inspector General of Police | ... | Chairperson ; |
| (b) Director General, Anti-Corruption Bureau | ... | Member ; |

Police
Establishment
Board No.1.

Functions of
Police
Establishment
Board No. 1.

Police
Establishment
Board
No. 2.

- (c) Commissioner of Police, Mumbai ... Member ;
- (d) Additional Director General and
Inspector General of Police
(Law and Order) ... Member ;
- (e) Secretary or Principal Secretary,
as the case may be (Appeal and
Security) ... Member ;
- (f) Additional Director General
and Inspector General of Police ... Member-
(Establishment) Secretary :

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Additional Director General and Inspector General of Police belonging to such Class.

Explanation.— For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, Denotified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

Functions
of Police
Establishment
Board No. 2.

22F. The Police Establishment Board No. 2 shall perform the following functions, namely :—

(1) Subject to the provisions of this Act, the Board constituted under sub-section (1) of section 22E may, make appropriate recommendations to the Competent Authority concerned, regarding the service conditions of Police Officers excluding salary and allowances. The Competent Authority shall normally act upon them.

(2) In particular and without prejudice to the generality of the foregoing functions, the Board may perform all or any of the following functions, namely :—

(a) to decide posting and transfer of Police Officers ;

(b) to make appropriate recommendations to the Competent Authority concerned, in respect of the grievances received by the Board from Police Officers regarding their promotions, disciplinary proceedings and other service matters ;

(c) the Board shall perform such other functions as may be assigned to the Board by the State Government, from time to time.

(3) Notwithstanding anything contained in clauses (1) and (2), the State Government may, from time to time, give directions in public interest and administrative exigencies in respect of postings, transfers and disciplinary matters relating to the Police Officers and such directions shall be binding on the Board.

Explanation.— For the purposes of this section, the expression “Police Officer” means a Police Officer of and below the rank of the Police Inspector.

Police
Establishment
Board at
Range Level.

22G. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board at Range Level.

(2) The Police Establishment Board at Range Level shall consist of the following members, namely :—

- (a) Range Inspector General of Police ... Chairperson;
- (b) Two senior-most Superintendents of Police within the Range ... Member;
- (c) The Reader (Deputy Superintendent of Police), in the office of the Range Inspector General of Police ... Member-Secretary:

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Superintendent of Police belonging to such Class.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

22H. The Police Establishment Board at Range Level shall perform the following functions, namely :—

Functions of Police Establishment Board at Range Level.

(a) The Board shall decide all transfers, postings and other service related matters of Police Officers of the rank of Police Sub-Inspector to Police Inspector within the Range;

(b) The Board shall be authorized to make appropriate recommendations to the Police Establishment Board No. 2, regarding the postings and transfers out of the Range, of the Police Officers of the rank of Police Sub-Inspector to Police Inspector.

Explanation.—For the purposes of this section, the expression “Police Officer” means a Police Officer of the rank of Police Sub-Inspector to Police Inspector.

22I. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board at Commissionerate Level.

Police Establishment Board at Commissionerate Level.

(2) The Police Establishment Board at Commissionerate Level shall consist of the following members, namely :—

- (a) Commissioner of Police ... Chairperson;
- (b) Two senior-most officers in the rank of Joint Commissioner or Additional Commissioner or Deputy Commissioner of Police ... Member;
- (c) Deputy Commissioner of Police (Head Quarter) ... Member-Secretary:

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Deputy Commissioner of Police belonging to such Class.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

Functions of
Police
Establishment
Board at
Commissioner-
ate Level.

22J. The Police Establishment Board at Commissionerate Level shall perform the following functions, namely:—

(a) The Board shall decide all transfers, postings and other service related matters of Police Officers of the rank of Police Sub-Inspector to Police Inspector within the Commissionerate ;

(b) The Board shall be authorized to make appropriate recommendations to the Police Establishment Board No. 2 regarding the postings and transfers out of the Commissionerate, of the Police Officers of the rank of Police Sub-Inspector to Police Inspector.

Explanation.—For the purposes of this section, the expression “ Police Officer” means a Police Officer of the rank of Police Sub-Inspector to Police Inspector.

Police
Establishment
Boards to
comply rules
and
regulations.

22K. While performing the functions under this Act, the Police Establishment Board No. 1, Police Establishment Board No. 2, Police Establishment Board at Range Level and Police Establishment Board at Commissionerate Level, shall comply with and follow all the provisions of law including rules and regulations as may be in force, from time to time.

Erstwhile
Police
Establishment
Boards cease
to exist.

22L. On the constitution of the Police Establishment Board No. 1, Police Establishment Board No. 2, Police Establishment Board at Range Level and Police Establishment Board at Commissionerate Level under this Act, the erstwhile Police Establishment Boards constituted by the Home Department under the Government Resolution, dated the 15th July 2013 shall cease to exist:

Provided that, the decisions and recommendations made by the respective erstwhile Police Establishment Boards shall continue to operate as if the same are made by the respective Police Establishment Boards constituted under this Act.

Power of State
Government
not to be
affected.

22M. Nothing contained in this Act shall affect the power of the State Government or any other Competent Authority in respect of all matters relating to disciplinary action against any Police Officer of whatsoever rank.

Normal tenure
of Police
Personnel, and
Competent
Authority.

22N. (1) Any Police Personnel in the Police Force shall have a normal tenure of two years on one post or office, subject to the promotion or superannuation. The Competent Authority for the general transfer shall be as follows, namely:—

Police Personnel	Competent Authority
(a) Officers of the Indian Police Service	... Chief Minister ;
(b) Maharashtra Police Service Officers of and above the rank of Deputy Superintendent of Police	... Home Minister ;
(c) Officers upto Police Inspector	(a) Police Establishment Board No.2.
	(b) Police Establishment Board at Range Level.
	(c) Police Establishment Board at Commissionerate Level :

Provided that, the State Government may transfer any Police Personnel prior to the completion of his normal tenure, if,—

- (a) disciplinary proceedings are instituted or contemplated against the Police Personnel ; or
- (b) the Police Personnel is convicted by a court of law ; or
- (c) there are allegations of corruption against the Police Personnel; or
- (d) the Police Personnel is otherwise incapacitated from discharging his responsibility ; or
- (e) the Police Personnel is guilty of dereliction of duty.

(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force :

Provided that, the Competent Authority may, by general or special order, delegate its powers under this sub-section to any of its subordinate authority.

Explanation.— For the purposes of this sub-section, the expression “ Competent Authority ” shall mean :—

Police Personnel	Competent Authority
(a) Officers of the Indian Police Service	... Chief Minister ;
(b) Maharashtra Police Service Officers of and above the rank of Police Sub-Inspector	... Home Minister ;
(c) Police Personnel upto the rank of Assistant Police Sub-Inspector	... Director General and Inspector General of Police.

22O. (1) The crime branch or local crime branch and detection or investigation cells in each police station shall concentrate on investigation of crimes exclusively and shall not be entrusted with law and order, security and other duties, ordinarily.

Separation of Investigation Police from Law and Order Police.

(2) The Unit Commanders shall ensure the co-ordination between the investigation or detection wing and the law and order and other wings of each Unit.

22P. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, an Authority to be called the State Police Complaints Authority.

State Police Complaints Authority.

(2) The State Police Complaints Authority shall consist of the following members, namely :—

- (a) A retired High Court Judge ... Chairperson ;
- (b) A Police Officer superannuated in the rank not below the rank of Special Inspector General of Police ... Member ;
- (c) A person of eminence from the civil society ... Member ;

- (d) A retired officer not below the rank of Secretary to the State Government ... Member ;
- (e) Officer not below the rank of Additional Director General and Inspector General of Police ... Member-Secretary.

(3) On the constitution of the State Police Complaints Authority under this Act, the erstwhile State Police Complaints Authority constituted by the Home Department under the Government Resolution, dated the 15th July 2013 shall cease to exist :

Provided that, the complaints and inquiries pending before the erstwhile State Police Complaints Authority shall continue to operate as if such complaints or inquiries are pending with the State Police Complaints Authority constituted under this Act and the recommendations made by the erstwhile State Police Complaints Authority shall continue to operate as if the same are made by the State Police Complaints Authority constituted under this Act.

(4) The Chairperson of the State Police Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice of the High Court.

Powers and functions of State Police Complaints Authority.

22Q. (1) The State Police Complaints Authority shall exercise the powers and perform the functions as follows :—

(a) inquire *suo-moto* or on a complaint against Police Officers presented to it by,—

- (i) a victim or any member of his family or any other person on his behalf;
- (ii) the National or State Human Rights Commission; and
- (iii) the police,

into the complaint of,—

- (i) death in police custody ;
- (ii) grievous hurt as defined under section 320 of the Indian Penal Code ;
- (iii) rape or attempt to commit rape ;
- (iv) arrest or detention without following the prescribed procedure ;
- (v) corruption ;
- (vi) extortion ;
- (vii) land or house grabbing ; and
- (viii) any other matter involving serious violation of any provision of law or abuse of lawful authority ;

(b) require any person to furnish information on such points or matters as in the opinion of the authority may be useful for or relevant to the subject matter of inquiry.

(2) The members of the State Police Complaint Authority shall work for the Authority on a whole time basis. The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the non-official members of the State Police Complaints Authority shall be such as may be prescribed by the State Government.

(3) The term of office of a member of the State Police Complaints Authority shall be of three years.

5 of 1908. (4) The State Police Complaints Authority shall, while inquiring into any of the matters referred to in sub-section (1) have all the powers of a civil court while trying a civil suit under the Code of Civil Procedure, 1908, in respect of the following matters :—

(a) summoning and enforcing the attendance of witnesses and examining them on oath ;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits ;

(d) requisitioning any public record or copy thereof from any court or office ;

(e) issuing Commissions for the examination of witnesses or documents; and

(f) such other matters as may be prescribed by the State Government.

45 of 1860. (5) The State Police Complaints Authority shall have the power to require any person, subject to legal privilege to furnish information on such points or matters as, in the opinion of the State Police Complaints Authority, may be useful for, or relevant to, the subject matter of the inquiry, and any person so required shall be deemed to be legally bound to furnish such information within the meaning of sections 176 and 177 of the Indian Penal Code.

45 of 1860. (6) Notwithstanding anything contained in this Act, the State Police Complaints Authority shall be deemed to be a civil court, and when any offence as defined in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in view of or in the presence of the Authority, the Authority may cause the offender to be detained in custody and may, at any time before the rising of the Authority on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. If the State Police Complaints Authority in any case considers that a person accused of any of the offences referred to in section 345 of the Code of Criminal Procedure, 1973, and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such State Police Complaints Authority is, for any other reason, of opinion that the case should not be disposed of under section 345 of the Code of Criminal Procedure, 1973, such State Police Complaints Authority, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate. The Magistrate to whom any such case is forwarded shall proceed to deal with, as far as may be, as if it were instituted on a police report.

45 of 1860. (7) Every proceeding before the State Police Complaints Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code, the

State Police Complaints Authority shall be deemed to be a civil court for all the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 2 of 1974.

(8) The State Police Complaints Authority shall have the power to advise the State Government on measures to ensure protection of witnesses, victims and their families who might face any threat or harassment for making the complaint or for furnishing evidence.

(9) Any member of the State Police Complaints Authority as may be authorized by the Chairperson in writing may visit any police station, lock-up, or any other place of detention used by the police and, if he thinks fit, he may be accompanied by a Police Officer.

(10) The State Police Complaints Authority may, for the purpose of field inquiry direct any person as it deems fit to inquire into the subject matter of inquiry and submit a report to the Authority.

Report to be submitted to State Government.

22R. (1) The State Police Complaints Authority shall, after completing the inquiry, submit a report to the State Government within such time as may be prescribed by the State Government.

(2) On receipt of the report from the State Police Complaints Authority, the State Government shall take any of the following steps :—

(a) The State Government shall accept the report and act on the same unless the State Government exercises power of rejecting the report as specified in sub-section (3).

(b) Treat the same as a preliminary inquiry for the purpose of instituting disciplinary proceedings and thereafter the State Government or the Competent Authority, as the case may be, shall direct institution of disciplinary proceedings against the delinquent Police Officer.

(c) If the report of the State Police Complaints Authority discloses a *prima facie* case of commission of a cognizable offence, the State Government shall forward the same to the concerned Police Station and thereupon the same may be recorded as First Information Report under section 154 of the Code of Criminal Procedure, 1973. 2 of 1974.

(3) Notwithstanding anything contained in this Act, the State Government may reject the report of the State Police Complaints Authority in exceptional cases for reasons to be recorded in writing.

(4) In the event of the State Government rejecting the report of the State Police Complaints Authority, it may require the State Police Complaints Authority to hold further inquiry in the matter and submit a fresh report in that behalf.

Explanation.— For the purposes of section 22Q and this section, the expression "Police Officer" means the Police Officer of the rank of Deputy Superintendent of Police or Assistant Commissioner of Police and above.

Division Level Police Complaints Authority.

22S. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, an Authority to be called the Division Level Police Complaints Authority.

(2) The Division Level Police Complaints Authority shall consist of the following members, namely :—

- | | |
|---|-------------------|
| (a) A retired Principal District Judge | ... Chairperson ; |
| (b) A Police Officer superannuated not below the rank of Superintendent of Police | ... Member ; |

- | | |
|---|---------------------------|
| (c) Deputy Commissioner of Police
(Headquarter) | ... Member ; |
| (d) A person of eminence from
the civil society | ... Member ; |
| (e) An officer of the rank of
Deputy Superintendent of Police
or equivalent | ... Member-
Secretary. |

(3) On constitution of the Division Level Police Complaints Authority under sub-section (1), the erstwhile District Police Complaints Authority constituted by the Home Department under the Government Resolution, dated the 15th July 2013 shall cease to exist.

(4) The provisions of sections 22P, 22Q and 22R regarding the continuance of complaints or inquiries and recommendations, appointment of Chairpersons, powers and functions of the State Police Complaints Authority and submission of its report to the State Government, respectively, shall, *mutatis mutandis*, apply to the Division Level Police Complaints Authority.

22T. (1) Notwithstanding anything contained in this Act, whoever makes any false or frivolous complaint against Police Officer under this Chapter, shall, on conviction, be punished with an imprisonment of either description of a term which may extend to two years or with fine or with both and if such proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Prosecution
for false
complaint
against Police
Officers.

(2) For taking cognizance of an offence under sub-section (1) by the court, 2 of the provisions of section 195 of the Code of Criminal Procedure, 1973 shall, 1974. *mutatis mutandis*, apply.

(3) In case of conviction of a person for having made a false or frivolous complaint under this Act, such person shall be liable to pay to the concerned Police Officer against whom he has made the false or frivolous complaint, in addition to the legal expenses for contesting the case, a compensation which the Court trying the case under sub-section (2) may determine.

(4) Nothing contained in this section shall apply in case of complaints made in good faith.

Explanation.— For the purposes of this section, the expression “ good 45 of faith ” shall have the same meaning assigned to it in section 52 of the 1860. Indian Penal Code. ” .

5. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, by order published in the *Official Gazette*, give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

Power to
remove
difficulty.

Provided that, no such order shall be made after expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mah.
Ord. III
of 2014.

6. (1) The Maharashtra Police (Amendment) Ordinance, 2014, is hereby repealed.

Repeal of
Mah. Ord. III
of 2014 and
saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

The Government of India had appointed a National Police Commission for fresh examination of the role and performance of police, both as a law enforcing agency and as an institution to protect the rights of citizens enshrined in the Constitution of India. The National Police Commission, after examining all the issues in depth, submitted various reports and the final report in the year 1981. Prakash Singh and Others had filed Writ Petition (Civil) No. 310 of 1996 against Union of India and Others in the Hon'ble Supreme Court under article 32 of the Constitution of India for seeking directions to implement the report of the National Police Commission and to ensure the police is accountable essentially and preliminarily to the law of the land and the people.

2. The Hon'ble Supreme Court, while deciding the said Writ Petition in its Judgment, dated the 22nd September 2006 (reported in (2006) 8 SCC 2), has held that it is essential to lay down guidelines to be operative till framing of the appropriate legislation. The Hon'ble Supreme Court has issued directions under article 32 read with article 142 of the Constitution of India regarding constitution of the State Security Commission, Police Establishment Board, Police Complaints Authority, Separation of Investigation Police and Law and Order Police, Selection and Tenure of Director General and Inspector General of Police and Minimum Tenure of Police Officers on Operational Duties.

In pursuance of the said Judgment of the Hon'ble Supreme Court and until appropriate changes are made by law, the Government of Maharashtra issued various Government Resolutions and Notifications, from time to time.

In this backdrop, the Government of Maharashtra took a decision to appoint a Cabinet Sub-Committee to examine the issues involved and to make recommendations for necessary action. As the Cabinet Sub-Committee had recommended to amend the Maharashtra Police Act (XXII of 1951), suitably, the Government of Maharashtra, considered it expedient to amend the said Act, immediately.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Police Act for the purposes aforesaid, the Maharashtra Police (Amendment) Ordinance, 2014 (Mah. Ord. III of 2014), was promulgated by the Governor of Maharashtra on the 1st February 2014.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 17th February 2014.

R. R. PATIL,
Home Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :-

Clause 4.—Under this clause, which seeks to insert Chapter II-A in the Maharashtra Police Act (XXII of 1951),—

(a) in section 22B,—

(i) in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, a State Security Commission for the purpose of exercising the powers and performing functions assigned to it under the said Act;

(ii) in sub-section (7), power is taken to the State Government to prescribe by rules the terms and conditions of the office of the non-official members of the State Security Commission;

(b) in section 22C, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board No. 1, for the purposes of the said Act;

(c) in section 22E, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board No. 2, for the purposes of the said Act;

(d) in section 22G, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board at Range Level, for the purposes of the said Act;

(e) in section 22I, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board at Commissionerate Level, for the purposes of the said Act;

(f) in section 22P, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the State Police Complaints Authority, for the purposes of the said Act;

(g) in section 22Q,

(i) in sub-section (2), power is taken to the State Government to prescribe the salary or honorarium and other allowances payable to, and the other terms and conditions of service of the non-official members of the State Police Complaints Authority;

(ii) in clause (f) of sub-section (4), power is taken to the State Government to prescribe the matter with respect to which the State Police Complaints Authority shall have the powers of a civil court while trying a civil suit under the Code of Civil Procedure, 1908 (5 of 1908);

(h) in section 22R, in sub-section (1), power is taken to the State Government to prescribe the time within which the State Police Complaints Authority shall submit its report to the State Government;

(i) in section 22S, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Division Level Police Complaints Authority, for the purposes of the said Act.

Clause 5.—Under this clause, power is taken to the State Government to remove, by order published in *Official Gazette*, any difficulty arising in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the insertion of Chapter II-A in the Maharashtra Police Act (XXII of 1951) for the constitution of the State Security Commission, State Police Complaints Authority and Division Level Police Complaints Authority in the State. The non-recurring expenditure on this count is estimated to Rs. 253.57 lakh and the recurring expenditure on this count is estimated to Rs. 384.33 lakh and the recurring expenditure on additional transfer grants is Rs. 1855.58 lakh. The said expenditure will have to be met out of the Consolidated Fund of the State.

१५

सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra National Law University Bill, 2014 (L.A. Bill No. IV of 2014), introduced in the Maharashtra Legislative Assembly on the 24th February 2014, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. IV OF 2014.

A BILL

to establish and incorporate National Law Universities in the State for the development and advancement of legal education and for the purposes of imparting specialized and systematic instruction, training and research in systems of law and for the matters connected therewith or incidental thereto.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to establish and incorporate National Law Universities in the State for the development and advancement of legal education and for the purpose of imparting specialized and systematic instruction, training and research in systems of law and for the matters connected therewith or incidental thereto, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra National Law University Ordinance, 2014, on 18th February 2014 ;

AND WHEREAS it is expedient to replace the said Ordinance, by an Act of the State Legislature ; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra National Law University Act, 2014.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 18th February 2014.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Academic Council" means the Academic Council of the university referred to in section 21 ;

(b) "Bar Council of India" means the Bar Council of India, constituted under the Advocates Act, 1961 ;

25 of
1961.

(c) "Chancellor" means the Chancellor of the university ;

(d) "Executive Council" means the Executive Council of the university referred to in section 15 ;

(e) "Finance Committee" means the Finance Committee of the university referred to in section 25 ;

(f) "General Council" means the General Council of the university referred to in section 11 ;

(g) "Registrar" means the Registrar of the university referred to in section 29 ;

(h) "regulations" means the regulations of the university made under section 44 ;

(i) "Schedule" means the Schedule appended to this Act;

(j) "State Government" means the Government of Maharashtra ;

(k) "teacher" includes Professors, Associate Professors, Assistant Professors, Readers, Lecturers and any other person imparting instructions in the university ;

(l) "university" means the Maharashtra National Law University, specified in the Schedule ;

(m) "University Grants Commission" means the University Grant Commission established under the University Grants Commission Act, 1956 ;

3 of
1956.

(n) "Vice-Chancellor" means the Vice-Chancellor of the university.

Establishment
and
incorporation
of universities.

3. (1) With effect from such date, as the State Government may, by notification in the *Official Gazette*, appoint, there shall be established the universities having the name and headquarters as specified in the Schedule :

Provided that, different dates may be appointed for establishing different universities.

(2) The State Government may, from time to time, by notification in the *Official Gazette*, constitute any new university under this Act by such name, at such place and with effect from such date as may be specified in such notification, and by the said notification also insert necessary entries in the Schedule by suitably amending the Schedule and thereupon the Schedule shall stand amended accordingly :

Provided that, no such notification shall be issued except on a resolution passed by both Houses of the State Legislature.

(3) Each university shall consist of the Chancellor, the Vice-Chancellor, the General Council, the Executive Council, the Academic Council and the Registrar.

(4) Each university specified in the Schedule, shall be a body corporate by the name, having perpetual succession and a common seal with power, subject to provisions of this Act, to acquire and hold property both movable and immovable, and to contract and shall, by the said name, sue and be sued.

(5) In all suits and other legal proceedings by or against the university, the pleadings shall be signed and verified by the Vice-Chancellor and all processes in such suits and proceedings shall be issued to, and served on the Vice-Chancellor.

(6) The headquarters of the university referred to in sub-section (2) shall be at such place, as may be specified by the State Government by notification in the *Official Gazette*.

4. The objects of the university shall be to advance and disseminate learning and knowledge of law and legal processes and their role in national development, to develop in the students and research scholars, a sense of responsibility, to serve society in the field of law by developing skills in regard to advocacy, legal services, legislation, law reforms and the like, to organize lectures, seminars, symposia and conferences to promote legal knowledge and to make law and legal processes efficient instruments of social development, to hold examinations and confer degrees and other academic distinctions, and to do all such things as are incidental, necessary or conducive to the attainment of all or any of the objects of the university.

Objects of university.

5. No citizen of India shall be excluded from any office of the university or from any membership of any of its authorities, bodies or committees, or from appointment to any post, or from admission to any degree, diploma, certificate or other academic distinction or course of study on the ground only of sex, race, creed, class, caste, place of birth, religious belief or profession or political or other opinion. It shall not be lawful for the university to impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or a student or to hold any office therein or to graduate thereat or to enjoy or to exercise any privilege thereof.

University open to all.

6. (1) The university shall adopt the policy of the State Government and orders issued, from time to time, in regard to the reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes for appointment to different posts of teachers and non-teaching officers and employees and for the purpose of admission of students and fees structure.

University to follow Government policy in regard to reservation, etc.

(2) The university shall adopt the general policy of the State Government in regard to the welfare of various categories of weaker sections of the society and minorities as directed by the State Government from time to time.

7. The powers and functions of the university shall be,—

Powers and functions of university.

(i) to administer and manage the university and such centres for research, education and instruction as are necessary for the furtherance of the objects of the university ;

(ii) to provide for instruction in such branches of knowledge or learning pertaining to law, as the university may think fit and to make provision for research and for the advancement and dissemination of knowledge of law ;

(iii) to organize and undertake extra-mural teaching and extension services ;

(iv) to hold examinations and to grant diplomas or certificates, and to confer degrees and other academic distinctions on persons subject to such conditions as the university may determine and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause ;

(v) to confer honorary degrees or other distinctions in the manner laid down in the regulations ;

(vi) to fix, demand and receive fees and other charges as may be laid down in the regulations ;

(vii) to institute and maintain halls and hostels and to recognize places of residence for the students of the university and to withdraw such recognition accorded to any such place of residence ;

(viii) to establish such special centres, specialized study centres or other units for research and instruction as are, in the opinion of the university, necessary for the furtherance of its objects ;

(ix) to supervise and control the residence and to regulate the discipline of the students of the university and to make arrangements for promoting their health ;

(x) to make arrangements in respect of the residence, discipline and teaching of women students ;

(xi) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto ;

(xii) to regulate and enforce discipline among the employees of the university and to take such disciplinary measures as may be deemed necessary ;

(xiii) to institute Professorships, Associate Professorships, Assistant Professorships, Readerships, Lectureships and any other teaching, academic or research posts, required by the university ;

(xiv) to appoint persons as Professors, Associate Professors, Assistant Professors, Readers, Lecturers, or otherwise as teachers and researchers of the university ;

(xv) to institute and award fellowships, scholarships, prizes and medals ;

(xvi) to provide for printing, reproduction and publication of research and other works and to organize exhibitions ;

(xvii) to sponsor and undertake research in all aspects of law, justice and social development ;

(xviii) to co-operate with any other organization in the matter of education, training and research in law, justice, social development and allied subjects for such purposes as may be agreed upon on such terms and conditions as the university may from time to time determine ;

(xix) to co-operate with institutions of higher learning in any part of the world having objects wholly or partially similar to those of the university by exchange of teachers and scholars and generally in such manner, as may be conducive to the common objects ;

(xx) to regulate the expenditure and to manage the accounts of the university ;

(xxi) to establish and maintain within the premises of the university or elsewhere such classrooms and study halls, as the university may consider necessary and adequately furnish the same and to establish and maintain such libraries and reading rooms, as may appear convenient or necessary for the university ;

(xxii) to receive grants, subventions, subscriptions, donations and gifts for the purpose of the university and consistent with the objects for which the university is established ;

(xxiii) to purchase, take on lease, or accept as gifts, or otherwise, any land or building or works, which may be necessary or convenient for the purpose of the university, on such terms and conditions, as it may think fit and proper, and to construct, alter and maintain any such building or works ;

(xxiv) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the university, movable or immovable, on such terms as it may think fit and proper without prejudice to the interest and activities of the university :

Provided that, the university shall not sell, exchange, lease or otherwise dispose of movable or immovable property granted by the State Government without prior approval of the State Government or without compliance of the terms and conditions on which the State Government has given approval ;

(xxv) to draw and accept, to make and endorse, to discount and negotiate promissory notes, bills of exchange, cheques or other negotiable instruments ;

(xxvi) to execute conveyances, transfers, re-conveyances, mortgages, leases, licenses and agreements in respect of property, movable or immovable, including the Government securities belonging to the university or to be acquired for the purposes of the university ;

(xxvii) to appoint, in order to execute an instrument or transact any business of the university, any person as it may deem fit ;

(xxviii) to give up and cease from carrying on any classes or departments of the university ;

(xxix) to enter into any agreement with the Central Government, State Government, University Grants Commission or other authorities for receiving grants ;

(xxx) to accept grants of money, securities or property of any kind on such terms as may be deemed expedient ;

(xxxi) to raise and borrow money on bonds, mortgages or other obligations or securities founded or based upon all or any of the properties and assets of the university or without any securities and upon such terms and conditions, as it may think fit, and to pay out of the funds of the university, all expenses incidental to the raising of money, and to repay and redeem any money borrowed ;

(xxxii) to invest the funds of the university or money entrusted to the university in or upon such securities and in such manner, as it may deem fit and from time to time, transpose any investments ;

(xxxiii) to make such regulations as may, from time to time, be considered necessary for regulating the affairs and the management of the university and to alter, modify and to rescind them ;

(xxxiv) to constitute fund for the benefit of the academic, technical, administrative and other staff, in such manner and subject to such conditions as may be prescribed by the regulations, such as pension, insurance, provident fund and gratuity as it may deem fit and to make such grants as it may think fit for the benefit of any employees of the university and to aid in the establishment and support of the associations, institutions, funds, trusts and conveyances calculated to benefit the staff and the students of the university ;

(xxxv) to delegate all or any of its powers to the Vice-Chancellor of the university or any committee or any sub-committee or to any one or more members of its body or its officers ; and

(xxxvi) to do all such other acts and things, as the university may consider necessary, conducive or incidental to the attainment or enlargement of the aforesaid objects or any of them.

Teaching in
university.

8. (1) All recognized teaching in connection with the degrees, diplomas and certificates of the university, shall be conducted under the control of the General Council, by the teachers of the university, in accordance with the syllabus prescribed by the regulations.

(2) The courses and curricula and the authorities responsible for organizing such teaching shall be as prescribed by the regulations.

Chancellor of
university.

9. (1) The Chief Justice of India or his nominee, who shall be a senior judge of the Supreme Court, shall be the Chancellor of the university.

(2) The Chancellor shall have the right to cause an inspection, to be made by such person or persons as he may direct, of the university, its buildings, libraries and equipments and of any institution maintained by the university, and also of the examinations, teaching and other work conducted or done by the university, and to cause an inquiry to be made in the like manner in respect of any matter connected with the administration and finances of the university.

(3) The Chancellor shall, in every case give notice, to the university of his intention to cause an inspection or inquiry to be made, and the university shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(4) The Chancellor may address the Vice-Chancellor with reference to the result of such inspection or inquiry, and the Vice-Chancellor shall communicate to the General Council, the views of the Chancellor along with such advice as the Chancellor may have tendered on the action to be taken thereon.

(5) The General Council shall communicate through the Vice-Chancellor to the Chancellor such action, if any, as it proposes to take or has been taken on the result of such inspection or inquiry.

Authorities of
university.

10. The following shall be the Authorities of the university : —

- (i) the General Council ;
- (ii) the Executive Council ;
- (iii) the Academic Council ;
- (iv) the Finance Committee ; and

(v) such other authorities as may be declared as such by the regulations.

General
Council.

11. (1) The General Council shall be the chief advisory body of the university and it shall consist of the following members, namely:—

- (i) the Chancellor ;
- (ii) the Vice-Chancellor ;
- (iii) the Attorney General of India ;
- (iv) one judge of the Supreme Court nominated by the Chancellor ;
- (v) the Minister for Higher Education, State of Maharashtra ;
- (vi) the Minister for Law, State of Maharashtra ;
- (vii) the Chief Justice of the High Court at Mumbai or his nominee ;
- (viii) one judge of the High Court at Mumbai to be nominated by the Chancellor ;
- (ix) the Advocate General of Maharashtra ;
- (x) the Chairperson of the University Grants Commission or his nominee from among the members of the University Grants Commission ;

(xi) the Chairman, Bar Council of India or his nominee from amongst the members of the Bar Council of India ;

(xii) the Chairman, Bar Council of Maharashtra ;

(xiii) the Secretary or Principal Secretary or, as the case may be, Additional Chief Secretary, Government of Maharashtra, Higher and Technical Education Department ;

(xiv) two eminent persons in the disciplines of Social Sciences and Humanities, to be nominated by the Chancellor ;

(xv) one eminent person in the legal field, to be nominated by the Chancellor ;

(xvi) one eminent person in the educational field, to be nominated by the Chancellor ; and

(xvii) two members of the Executive Council who are not otherwise members of the General Council.

Explanation.—For the purposes of clauses (v) and (vi), if the Minister-in-charge of Department is the Chief Minister, any Minister nominated by him shall be the member.

(2) The Chancellor shall be the Chairman of the General Council.

(3) The Vice-Chancellor shall be the Secretary of the General Council.

12. (1) The term of office of the members of the General Council, other than *ex officio* members shall, subject to the provisions of sub-sections (2), (3) and (4), be three years.

Term of office of members of General Council.

(2) Where a member of the General Council becomes such member by reason of the office or appointment he holds or is a nominated member, his membership shall terminate when he ceases to hold such office or appointment or, as the case may be, his nomination is withdrawn or cancelled.

(3) A member of the General Council shall cease to be a member, if he resigns or becomes of unsound mind or becomes insolvent or is convicted of an offence involving moral turpitude or if such member, other than the Vice-Chancellor, accepts a full time appointment in the university or if he fails to attend three consecutive meetings of the General Council without obtaining the leave of the Chancellor.

(4) A member of the General Council may resign his office by a letter addressed to the Chancellor and such resignation shall take effect as soon as such resignation has been accepted by the Chancellor.

(5) Any vacancy in the General Council shall be filled either by appointment or nomination, as the case may be, of a person by the respective authority, entitled to make the same and the person so appointed or nominated shall hold office so long only as the member in whose place he is appointed or nominated could have held office if the vacancy had not occurred.

13. The General Council shall have the following powers and functions, namely:—

Powers and functions of General Council.

(i) to review from time to time the broad policies and programme of the university and suggest measures for the improvement and development of the university ;

(ii) to consider and pass the resolution on the annual report, financial estimates and the audit reports on such accounts ;

(iii) to perform such other functions as it may deem necessary for the efficient functioning and administration of the university.

14. (1) The General Council shall meet at least once in a year. An annual meeting of the General Council shall be held on a date to be fixed by the Executive Council, unless some other date has been fixed by the General Council in respect of any year.

Meetings of General Council.

(2) The Chancellor, when present, shall preside over the meetings. In the absence of the Chancellor, any member of the General Council nominated by him shall preside.

(3) A report of the working of the university during the previous year, together with a statement of receipts and expenditure, the balance sheet as audited, and the financial estimates shall be presented by the Vice-Chancellor to the General Council at its annual meetings.

(4) The meetings of the General Council shall be called by the Chancellor or in his absence by the Vice-Chancellor either on his own motion or at the request of not less than ten members of the General Council.

(5) For every meeting of the General Council, fifteen days' notice shall be given.

(6) One-third of the sitting members of the General Council shall form the quorum.

(7) Each member shall have one vote and, if there is equality of votes on any question to be determined by the General Council, the person presiding over the meeting shall, in addition, have a right of casting vote.

(8) In case of difference of opinion among the members, the opinion of majority of members shall prevail.

(9) If any urgent action by the General Council becomes necessary, the Vice-Chancellor may, permit the business to be transacted by circulation of papers to the members of the General Council. The action proposed to be taken, shall not be taken, unless agreed to by a majority of the members of the General Council. The action so taken shall be forthwith intimated to all the members of the General Council and the papers shall be placed before the next meeting of the General Council for confirmation.

Executive
Council.

15. (1) The Executive Council shall be the chief executive body of the university.

(2) The administration, management and control of the university and income thereof shall be vested with the Executive Council which shall control and administer the property and funds of the university.

(3) The Executive Council shall consist of the following persons, namely :—

(i) the Vice-Chancellor ;

(ii) a member of the General Council, who is a judge to be nominated by the Chancellor ;

(iii) the Secretary or Principal Secretary or, as the case may be, Additional Chief Secretary to Government of Maharashtra, Higher and Technical Education Department ;

(iv) the Secretary or Principal Secretary or, as the case may be, Additional Chief Secretary, Government of Maharashtra, Finance Department ;

(v) the Secretary or Principal Secretary, Government of Maharashtra, Law and Judiciary Department ;

(vi) a member of the General Council, who is a eminent person in the legal field ;

(vii) a member of the General Council, who is a eminent person in the educational field ;

(viii) five Professors or Associate Professors of the university to be nominated by the Vice-Chancellor.

(4) The Vice-Chancellor shall be the Chairman of the Executive Council.

16. (1) Where a person has become a member of the Executive Council by reason of the office or appointment, he holds, his membership shall terminate when he ceases to hold that office or appointment. Term of Office of Executive Council.

(2) A member of the Executive Council shall cease to be a member, if he resigns or becomes of unsound mind or becomes insolvent or is convicted for an offence involving moral turpitude or if a member other than the Vice-Chancellor or a member of a faculty, accepts a full time appointment in the university or if he fails to attend three consecutive meetings of the Executive Council without the leave of the Chairman of the Executive Council.

(3) Unless the membership of the Executive Council is terminated under sub-section (1) or ceased under sub-section (2), the members of the Executive Council shall cease to be members on the expiry of three years from the date on which they become members of the Executive Council but, shall be eligible for re-nomination or re-appointment, as the case may be :

Provided that, the term of the first Executive Council shall be five years.

(4) A member of the Executive Council other than an *ex officio* member may resign his office by a letter addressed to the Chairman of the Executive Council and such resignation shall take effect as soon as it has been accepted by the Chairman of the Executive Council.

(5) Any vacancy in the Executive Council shall be filled either by appointment or nomination, as the case may be, by the respective authority entitled to make the same and the person so appointed or nominated shall hold office so long only as the member in whose place he is appointed or nominated would have held office if, the vacancy had not occurred.

17. (1) Without prejudice to section 15, the Executive Council shall have the following powers and functions, namely :— Powers and functions of Executive Council.

(i) to appoint, from time to time, the Vice-Chancellor, Registrar, Librarian, Professors, Associate Professors, Assistant Professors and other members of the teaching staff, as may be necessary, on the recommendations of the Selection Committee constituted by the regulations for the purpose :

Provided that, no action shall be taken by the Executive Council, except in cases covered by the second proviso, in regard to the number, qualifications and emoluments of teachers, otherwise than after consideration of the recommendations of the Academic Council :

Provided further that, it shall not be necessary to constitute any Selection Committee for making appointments,—

(a) to any supernumerary post ; or

(b) to the post of the Professor of a person of high academic distinction, eminence and professional attainment invited by the Executive Council to accept the post ;

(ii) to create administrative, ministerial and other necessary posts, to determine the number and emoluments of such posts, to specify minimum qualification for appointment to such posts and to appoint persons to such posts on such terms and conditions of service as may be prescribed by the regulations made in this behalf, or to delegate the powers of appointments to such authority or authorities or officer or officers as the Executive Council may, from time to time, by resolution, either generally or specifically, direct ;

(iii) to grant, in accordance with the regulations, leave of absence other than casual leave to any officer of the university and to make necessary arrangements for the discharge of the functions of such officer during his absence ;

(iv) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the university and for that purpose, to appoint such agents, as it may think fit ;

(v) to invest any money belonging to the university, including any unapplied income, in such stock, funds, shares or securities, as it may from time to time, think fit, or in the purchase of immovable property in India, with the like power of varying such investments from time to time;

(vi) to transfer or accept transfers of any movable or immovable property on behalf of the university ;

(vii) to enter into, vary, carryout and cancel contracts on behalf of the university and for that purpose to appoint such officers, as it may think fit ;

(viii) to provide the buildings, premises, furniture and apparatus and other means needed for carrying out the work of the university ;

(ix) to entertain, adjudicate upon, and if it thinks fit, to redress any grievances of the officers of the university, the teachers, the students and the employees of the university, who may, for any reason, feel aggrieved, otherwise than by an order of a court ;

(x) to appoint examiners and moderators, and if necessary to remove them and to fix their fees, emoluments and travelling and other allowances, in consultation with the Academic Council ;

(xi) to select a common seal for the university and to provide for the custody of the seal ; and

(xii) to exercise such other powers and to perform such other functions, as may be conferred or imposed on it by or under this Act.

Meetings of
Executive
Council.

18. (1) The Executive Council shall meet at least once in three months and not less than fifteen days' notice shall be given of such meeting.

(2) Six members of the Executive Council shall constitute a quorum at any meeting thereof.

(3) In case of difference of opinion among the members, the opinion of the majority shall prevail.

(4) Each member of the Executive Council shall have one vote and if there shall be equality of votes on any question to be determined by the Executive Council, the Chairman of the Executive Council or as the case may be, the member presiding over that meeting shall, in addition, have a casting vote.

(5) Every meeting of the Executive Council shall be presided over by the Vice-Chancellor being the Chairman of the Executive Council and in his absence, by a member chosen by the members present to preside on the occasion.

(6) If any urgent action by the Executive Council becomes necessary, the Vice-Chancellor may, permit the business to be transacted by circulation of papers to the members of the Executive Council. The action proposed shall not be taken, unless agreed to by a majority of members of the Executive Council. The action so taken shall be forthwith intimated to all the members of the Executive Council. The papers shall be placed before the next meeting of the Executive Council for confirmation.

19. (1) Subject to the provisions of this Act and regulations made in this behalf, the Executive Council may, by resolution, constitute such Standing Committees or appoint *ad-hoc* committees for such purposes and with such powers as the Executive Council may think fit for exercising any power or discharging any function of the university or for enquiring into, reporting or advising upon any matter relating to the university.

Constitution of Standing Committee and appointment of *ad-hoc* committees by Executive Council.

(2) The Executive Council may co-opt such persons to a Standing Committee or an *ad-hoc* committee as it considers suitable and may permit them to attend the meetings of the Executive Council.

20. The Executive Council may, by resolution, delegate to the Vice-Chancellor or to a committee, such of its powers as it may deem fit, subject to the condition that the action taken by the Vice-Chancellor or such committee in the exercise of the powers so delegated shall be reported at the next meeting of the Executive Council.

Delegation of powers by Executive Council.

21. The Academic Council shall be the academic body of the university and shall, subject to the provisions of this Act and the regulations, have power of control and general regulation of, and be responsible for, the maintenance of standards of instruction, education and examination of the university, and shall exercise such other powers and perform such other functions as may be conferred or imposed upon it by this Act or the regulations. It shall have the right to advise the Executive Council on all academic matters.

Academic Council.

22. (1) The Academic Council shall consist of the following persons, namely:—

Constitution of Academic Council.

(a) the Vice-Chancellor—Chairman ;

(b) three persons from amongst the educationists of repute or men of letters or members of the learned professions or eminent public men, who are not in the service of the university, nominated by the Chancellor ;

(c) a person nominated by the State Government ;

(d) a nominee of the Bar Council of India ;

(e) all the Head of the Departments ;

(f) all Professors other than the Head of the Departments ;

(g) two members of the teaching staff, representing Associate and Assistant Professors of the university.

(2) The term of the members other than *ex officio* members and those whose term is specified in clause (c) of sub-section (1), shall be three years :

Provided that, the term of the first Academic Council shall be five years.

23. Subject to the provisions of this Act and the regulations, the Academic Council shall, in addition to all other powers vested in it, have the following powers and functions, namely :—

Powers and functions of Academic Council.

(i) to report on any matter referred or delegated to it by the General Council or the Executive Council ;

(ii) to make recommendations to the Executive Council with regard to the creation, abolition or classification of teaching posts in the university and the emoluments and the duties attached thereto ;

(iii) to formulate, modify or revise schemes for the organization of the faculties, and to assign to such faculties their respective subjects, and also to report to the Executive Council as to the expediency of the abolition or sub-division of any faculty or the combination of one faculty with another ;

(iv) to make arrangements through regulations for the instruction and examination of persons, other than those enrolled in the university ;

(v) to promote research within the university and to require from time to time, reports on such research ;

(vi) to consider proposals submitted by the faculties ;

(vii) to appoint committees for admissions to the university ;

(viii) to recognize diplomas and degrees of other universities and institutions and to determine their equivalence in relation to the diplomas and degrees of the university ;

(ix) to fix, subject to any conditions accepted by the General Council, the time, mode and conditions of competition for fellowships, scholarships and other prizes and to award the same ;

(x) to make recommendations to the Executive Council in regard to the appointment of examiners and if necessary, their removal and fixation of their fees, emoluments and travelling and other expenses ;

(xi) to make arrangements for the conduct of examinations and to fix dates for holding them ;

(xii) to declare the result of the various examinations or to appoint committees or officers to do so, and to make recommendations regarding the conferment or grant of degrees, honors, diplomas, licenses, titles and marks of honor ;

(xiii) to award stipends, scholarships, medals and prizes and to make other awards in accordance with the regulations and such other conditions, as may be attached to the awards ;

(xiv) to publish lists of prescribed or recommended text books and to publish syllabus of the prescribed courses of study ;

(xv) to prepare such forms and registers as are, from time to time, prescribed by the regulations ; and

(xvi) to perform, in relation to academic matters, all such functions and to do all such acts as may be necessary for the proper carrying out of the provisions of this Act and the regulations.

Procedure of
meetings of
Academic
Council.

24. (1) The Academic Council shall meet as often as may be necessary, but not less than two times during an academic year.

(2) One-half of the total number of members of the Academic Council shall form the quorum for a meeting of the Academic Council.

(3) In case of difference of opinion among the members, the opinion of the majority shall prevail.

(4) Each member of the Academic Council, including the Chairman of the Academic Council, shall have right to one vote and if there shall be an equality of votes on any question to be determined by the Academic Council, the Chairman of the Academic Council, or as the case may be, the member presiding over the meeting, shall in addition, have a right of casting vote.

(5) Every meeting of the Academic Council shall be presided over by the Chairman of the Academic Council and in his absence, by a member chosen by the meeting to preside on the occasion.

(6) If any urgent action by the Academic Council becomes necessary, the Chairman of the Academic Council may, permit the business to be transacted by circulation of papers to the members of the Academic Council. The action proposed shall not be taken, unless agreed to by a majority of members of the Academic Council. The action so taken shall be forthwith intimated to all the members of the Academic Council. The papers shall be placed before the next meeting of the Academic Council for confirmation.

25. (1) There shall be a Finance Committee constituted by the Executive Council consisting of the following, namely:— Finance Committee.

(i) the Vice-Chancellor;

(ii) three members nominated by the Executive Council from amongst its members out of whom at least one shall be a representative of the Government of Maharashtra ;

(iii) the Finance and Accounts Officer of the university.

(2) The members of the Finance Committee, other than the Vice-Chancellor, shall hold office for a term of three years.

(3) The powers and functions of the Finance Committee shall be as follows, namely:—

(i) to examine and scrutinize the annual budget of the university and to make recommendations on financial matters of the Executive Council;

(ii) to consider all proposals for new expenditure and to make recommendations to the Executive Council;

(iii) to consider the periodical statements of accounts and to review the finances of the university, from time to time; and to consider re-appropriation statements and audit reports and to make recommendations to the Executive Council;

(iv) to give its views and to make recommendations to the Executive Council on any financial question affecting the university either on its own initiative or on reference from the Executive Council or the Vice-Chancellor.

(4) The Finance Committee shall meet at least twice every year. Three members of the Finance Committee shall form the quorum.

(5) The Vice-Chancellor shall preside over the meetings of the Finance Committee, and in his absence, a member, elected at the meeting shall preside. In case of difference of opinion among the members, the opinion of the majority of the members present shall prevail.

26. (1) The Executive Council shall constitute Selection Committees for making recommendations to the Executive Council for appointment to posts of Professors, Associate Professors, Assistant Professors and other teachers in the university. Selection Committees.

(2) The Selection Committee shall consist of the following members:-

(i) the Vice-Chancellor, who shall be the Chairman of the Committee;

(ii) the Head of the Department concerned, if any, provided he holds a post not lower than the level of the post for which the selection is to be made;

(iii) three experts for selecting Professors, Associate Professors and Assistant Professors nominated by the Vice-Chancellor from amongst a panel of names recommended by the Academic Council and approved by the Executive Council.

(3) The meeting of the Selection Committee shall be convened by the Vice-Chancellor whenever necessary. The Vice-Chancellor shall preside over the meetings of the Selection Committee. Three members of whom one shall be the expert of the Selection Committee shall form the quorum.

Officers of
University.

27. The following shall be the Officers of the University, namely : —

- (i) the Vice-Chancellor;
- (ii) the Registrar;
- (iii) the Head of the Departments;
- (iv) the Finance and Accounts Officer; and
- (v) such other officers as may be prescribed by the regulations.

Vice-
Chancellor.

28. (1) The Vice-Chancellor shall be appointed by the Executive Council in accordance with the regulations made in that behalf and in consultation with the Chancellor :

Provided that, the first Vice-Chancellor shall be appointed by the Government of Maharashtra with the approval of the Chancellor.

(2) Subject to the specific and general directions of the Executive Council, the Vice-Chancellor shall exercise all powers of the Executive Council in the management and administration of the university.

(3) The Vice-Chancellor who shall be an academic person and a Professor of Law at the university, shall hold office for a term of five years, which shall be renewable by a resolution to that effect by the Executive Council or upto the age of retirement of the members of the teaching staff, whichever is earlier. Upon the expiry of his term, he shall continue in office until his successor is appointed and enters upon his office.

(4) The Vice-Chancellor shall,—

- (i) ensure that, the provisions of this Act, and the regulations are duly observed, and he shall have all powers, as are necessary for that purpose;
- (ii) convene the meetings of the General Council, the Executive Council, the Academic Council and shall perform all other acts, as may be necessary to give effect to the provisions of this Act ;
- (iii) represent the university in suits or proceedings by or against the university, sign powers-of-attorney and verify the pleadings or depute representatives for the purpose;
- (iv) have all powers relating to the proper maintenance of discipline in the university.

(5) If in the opinion of the Vice-Chancellor, any emergency has arisen, which requires that immediate action be taken, he shall take such action as he deems necessary and shall report the same for confirmation to the next meeting of the authority, which, in the ordinary course, would have dealt with the matter.

Registrar.

29. (1) The Registrar shall be appointed by the Executive Council and he shall be a whole time officer of the university. The terms and conditions of the service of the Registrar shall be as such as may be prescribed by the regulations.

(2) The Registrar shall be the *ex officio* Secretary of the Executive Council, the Academic Council, the Finance Committee and the faculties, but shall not be deemed to be a member of any of these authorities.

(3) The Registrar shall,—

- (i) comply with all directions and orders of the Executive Council and the Vice-Chancellor ;

(ii) be the custodian of the records, common seal and such other property of the university as the Executive Council shall commit to his charge ;

(iii) issue all notices convening meeting of the Executive Council, the Academic Council, the Finance Committee, the faculties and of any committee, appointed by the authorities of the university ;

(iv) keep the minutes of all meetings of the Executive Council, the Academic Council, the Finance Committee, the faculties and any committee appointed by the authorities of the university ;

(v) conduct the official correspondence of the Executive Council and the Academic Council ;

(vi) supply the Chancellor, the copies of the agenda of the meetings of the authorities of the university, as soon as they are issued and the minutes of the meetings of the authorities, ordinarily within a month of the holding of the meeting ;

(vii) call a meeting of the Executive Council forthwith in an emergency, when neither the Vice-Chancellor nor the officer duly authorized is able to act and to take its directions for carrying out the work of the university ;

(viii) be directly responsible to the Vice-Chancellor for the proper discharge of his duties and functions ; and

(ix) perform such other duties as may be assigned, from time to time, by the Executive Council or the Vice-Chancellor.

(4) In the event of the post of the Registrar remaining vacant for any reason, it shall be open to the Vice-Chancellor to authorize any officer in the service of the university to exercise such powers, functions and duties of the Registrar as the Vice-Chancellor deems fit.

30. (1) There shall be a Head for each of the Departments in the university. Head of Departments.

(2) The powers, functions, appointments and terms and conditions of service of the Head of the Departments shall be such as may be prescribed by the regulations.

31. The Finance and Accounts Officer shall be appointed in such manner and on such terms and conditions of service and emoluments and shall exercise such powers and perform such functions as may be laid down by the regulations. Finance and Accounts Officer.

32. (1) Subject to the regulations made for the purpose, every other officer or employee of the university shall be appointed under a written contract setting out the conditions of service as prescribed by the regulations which shall be lodged with the university and a copy thereof furnished to the officer or employee concerned. Other officers and employees.

(2) Any dispute arising out of a contract between the university and any of its officers or employees shall, at the request of the officer or the employee concerned or at the instance of the university, be referred to the Tribunal for arbitration consisting of three members, appointed by the Executive Council as prescribed by the regulations.

33. All the permanent employees of the university shall be entitled to the benefit of the provident fund, gratuity and other benefits in accordance with such regulations as may be framed in that behalf by the Executive Council. Provident fund, gratuity and other benefits.

University
Fund.

34. (1) For each university under this Act, there shall be a fund called a University Fund which shall include,—

- (i) any contribution or grant made by the State Governments;
- (ii) any contribution or grant made by the University Grants Commission or the Central Government;
- (iii) any contribution made by the Bar Council of India;
- (iv) any contribution made by the State Bar Councils;
- (v) any bequests, donations, endowments or other grants made by private individuals or institutions;
- (vi) income received by the university from fees and charges ; and
- (vii) amounts received from any other source.

(2) The amount in the said fund shall be kept in a Scheduled Bank within the meaning of clause (e) of the Reserve Bank of India Act, 1934 or in a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or, as the case may be, under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or may be invested in such securities authorized by the Indian Trusts Act, 1882, as may be decided by the Executive Council.

2 of
1934.
5 of
1970.
40 of
1980.
2 of
1882.

(3) The said fund may be employed for such purpose of the university and in such manner as may be prescribed by the regulations.

Annual
accounts and
audit.

35. (1) The annual accounts of the university shall be prepared under the directions of the Executive Council.

(2) The accounts of the university shall, at least once in a year, be audited by the auditors appointed by the Executive Council :

Provided that, the State Government shall have the power to direct, whenever considered necessary, an audit of the accounts of the university, including the institutions managed by it, by such auditors, as it may specify.

(3) The accounts when audited shall be published by the Executive Council and a copy of the accounts together with the audit report shall be placed before the General Council and also shall be submitted to the State Government.

(4) The annual accounts shall be considered by the General Council at its annual meeting. The General Council may pass resolutions with reference thereto and communicate the same to the Executive Council. The Executive Council shall consider the suggestions made by the General Council and take such action thereon as it thinks fit. The Executive Council shall inform the General Council at its next meeting all actions taken by it or the reasons for not taking action.

Financial
estimates.

36. (1) The Executive Council shall prepare before such date as may be prescribed by the regulations, the financial estimates for the ensuing year and place the same before the General Council.

(2) The Executive Council may, in case where the expenditure in excess of the amount provided in the budget is to be incurred or in cases of urgency, for reasons to be recorded in writing, incur expenditure subject to such restrictions and conditions specified in the regulations. Where no provision has been made in the budget in respect of such excess expenditure a report shall be made to the General Council at its next meeting.

37. (1) The Executive Council shall prepare the annual report containing such particulars as the General Council may specify, covering each financial year and submit it to the General Council on or before such date as may be prescribed by regulations. The General Council may pass resolutions thereon and the Executive Council shall take action in accordance therewith. The action taken shall be intimated to the General Council.

Annual report.

(2) Copies of the annual report along with the resolution of the General Council thereon shall be submitted to the State Government. The State Government shall lay the same before both the houses of the State Legislature at their next earliest session.

38. All contracts relating to the management and administration of the university shall be expressed as made by the Executive Council, and shall be executed by the Vice-Chancellor when the value of the contract is above ten lakhs of rupees and by the Registrar, when its value does not exceed ten lakhs of rupees.

Execution of contracts.

39. (1) No student shall be eligible for admission to a course of study for a degree or diploma, unless he possesses such qualifications as may be prescribed by the regulations.

Eligibility for admission of students.

(2) The students not exceeding one hundred and twenty in number, shall be admitted on basis of merit through the Common Law Admission Test (CLAT) conducted by the committee of National Law Universities or through such process as may be prescribed by the regulations from time to time.

40. Every student of the university shall reside in a hostel maintained or recognized by the university or under such conditions as may be prescribed by the regulations.

Residence of students.

41. If not less than two-third of the members of the Academic Council recommends that an honorary degree or academic distinction be conferred on any person on the ground that he is in their opinion, by reason of eminent attainment and position, fit and proper to receive such degree or academic distinction, the General Council may, by a resolution, decide that the same may be conferred on the person recommended.

Honorary degree.

42. (1) The General Council may, on the recommendation of the Executive Council, withdraw any distinction, degree, diploma or privilege conferred on, or granted to, any person by a resolution passed by the majority of the total membership of the General Council and by a majority of not less than two-thirds of the members of the General Council present and voting at the meeting, if such person has been convicted by a court of law for an offence, which in the opinion of the General Council, involves moral turpitude or if he has been guilty of gross misconduct.

Withdrawal of degree or diploma.

(2) No action under sub-section (1), shall be taken against any person, unless he has been given an opportunity to show cause against the action proposed to be taken.

(3) A copy of the resolution passed by the General Council shall be immediately sent to the person concerned.

(4) Any person aggrieved by the decision taken by the General Council, may appeal to the Chancellor within thirty days from the date of receipt of such resolution.

(5) The decision of the Chancellor in such appeal shall be final.

Discipline.

43. (1) The final authority responsible for maintenance of discipline among the students of the university shall be the Vice-Chancellor. His directions in that behalf shall be carried out by the Heads of Departments, hostels and institutions.

(2) Notwithstanding anything contained in sub-section (1), the punishment of debarring a student from an examination or rustication from the university or a hostel or an institution shall, on the report of the Vice-Chancellor, be considered and imposed by the Executive Council :

Provided that, no such punishment shall be imposed without giving the student concerned a reasonable opportunity to show cause against the action proposed to be taken against him.

Regulations.

44. (1) Subject to the provisions of this Act, the Executive Council shall have, in addition to all the other powers vested in it, the power to make regulations to provide for the administration and management of the affairs of the university :

Provided that, the Executive Council shall not make any regulation affecting the status, powers or constitution of any authority of the university until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council :

Provided further that, except with the prior concurrence of the Academic Council, the Executive Council shall not make, amend or repeal any regulation affecting any or all of the following matters, namely :—

- (i) the constitution, powers and duties of the Academic Council ;
- (ii) the authorities responsible for organising teaching in connection with the university courses and related academic programmes ;
- (iii) the withdrawal of degrees, diplomas, certificates and other academic distinctions ;
- (iv) the establishment and abolition of faculties, departments, halls and institutions ;
- (v) the institution of fellowships, scholarships, studentships, exhibitions, medals and prizes ;
- (vi) conditions and modes of appointment of examiners or conduct or standard of examinations or any other course of study ;
- (vii) modes of enrolment or admission of students ;
- (viii) examinations to be recognized as equivalent to university examinations.

(2) The Academic Council shall have the power to propose regulations on all the matters specified in clauses (i) to (viii) of sub-section (1) and matters incidental and related thereto in this regard.

(3) Where the Executive Council has rejected the draft of a regulation proposed by the Academic Council, the Academic Council may appeal to the Chancellor and the Chancellor, may, by order, direct that the proposed regulation may be laid before the next meeting of the General Council for its approval and that pending such approval of the General Council it shall have effect from such date as may be specified in that order:

Provided that, if the regulation is not approved by the General Council at such meeting, it shall cease to have effect.

(4) All regulations made by the Executive Council shall be submitted, as soon as may be, for approval, to the Chancellor and to the General Council at its next meeting, and the General Council shall have power by a resolution passed by a majority of not less than two-thirds of the members present, to cancel any regulation made by the Executive Council and such regulations shall, from the date of such resolution, cease to have effect.

45. (1) The Chancellor shall, at least once in every five years, constitute a commission to review the working of the university and to make recommendations. Appointment of university review commission.

(2) The commission shall consist of not more than three eminent educationists, one of whom shall be the Chairman of such commission, appointed by the Chancellor in consultation with the State Government.

(3) The terms and conditions of appointment of the members shall be such as the Chancellor may determine.

(4) The commission shall, after holding such enquiry as it deems fit, make its recommendations to the Chancellor.

(5) The Chancellor may take such action on the recommendations as it deems fit.

46. (1) Notwithstanding that the General Council, the Executive Council, the Academic Council or any other authority or body of the university is not duly constituted or there is a defect in its constitution or reconstitution at any time and notwithstanding that there is a vacancy in the membership of any such authority or body, no act or rule or proceedings of such authority or body shall be invalidated on any such ground or grounds. Action not invalidated merely on ground of defect in constitution, vacancy, etc.

(2) No resolution of any authority or body of the university shall be deemed to be invalid on account of any irregularity in the service of notice upon any member :

Provided that, the proceedings of such authority or body were not prejudicially affected by such irregularity.

47. (1) If any difficulty arises with respect to the establishment of the university or in connection with the first meeting of any authority of the university or otherwise in first giving effect to the provisions of this Act and the regulations, the Chancellor may, at any time, before all authorities of the university have been constituted, by order, make any appointment or do anything consistent, so far as may be, with the provisions of this Act and the regulations, which appear to him necessary or expedient for the purpose of removing the difficulty and every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Act and the regulations : Removal of difficulties at commencement.

Provided that, before making any such order the Chancellor shall ascertain and consider the opinion of the Vice-Chancellor and of such appropriate authority of the university as may have been constituted.

Transitory provisions.

48. Notwithstanding anything contained in this Act, and the regulations made thereunder, the Vice-Chancellor may, with the previous approval of the Chancellor and subject to the availability of funds, discharge all or any of the functions of the university for the purpose of carrying out the provisions of this Act and the regulations and for that purpose may exercise any powers or perform any duties, which by this Act and the regulations are to be exercised or performed by any authority of the university until such authority comes into existence as provided by this Act and the regulations.

Indemnity.

49. No suit, prosecution or other legal proceedings shall lie against and no damages shall be claimed from the university, the Vice-Chancellor, the authorities or officers of the university or any other person in respect of anything which is in good faith done or purporting to have been done in pursuance of this Act or any regulations made thereunder.

Act to have over-riding effect.

50. The provisions of this Act and any regulation made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Sponsored schemes.

51. Whenever the university receives funds from any Government, the University Grants Commission or other agencies sponsoring a scheme, to be executed by the university, notwithstanding anything contained in this Act and regulations—

(i) the amount received, shall be kept by the university separately from the university fund and utilized only for the purpose of the scheme; and

(ii) the staff required to execute the scheme, shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organization.

Power to remove difficulty.

52. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mah.
Ord. V
of 2014.

53. (1) The Maharashtra National Law University Ordinance, 2014 is hereby repealed.

Repeal of Mah.
Ord. V of 2014
and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under this Act.

SCHEDULE

(See section 3(1))

Name of the University (1)	Headquarter of the University (2)
1. Maharashtra National Law University, Mumbai.	Mumbai.
2. Maharashtra National Law University, Aurangabad.	Aurangabad.
3. Maharashtra National Law University, Nagpur.	Nagpur.

STATEMENT OF OBJECTS AND REASONS

The main challenge facing India's legal and judicial system is ensuring that common people in India are able to enjoy their constitutional and legislative rights to the fullest extent. The legal system should also effectively facilitate eradication of poverty as well as equitable and environmentally sustainable economic growth.

2. With this view, Government of Maharashtra is desirous of establishing National Law Universities, that shall provide legal education to prepare legal professionals who will play a decisive leadership role in meeting these challenges, not only as advocates practicing in courts, but also as legislators, judges, policy makers, public officials and civil society activists as well as legal counsels in the private sector. Legal education shall also prepare lawyers to meet the new challenges of working in a globalized knowledge economy in which the nature and organization of law and legal practice are undergoing a paradigm shift. Original and path breaking legal research is needed to create new legal knowledge and legal ideas that will help us to meet these challenges in a manner responsive to the needs of the State.

3. The vision of National Law Universities shall be to ensure delivery of justice oriented legal education to contribute to the realization of values enshrined in the Constitution of India. Legal education shall also inculcate the need to observe the highest standards of professional ethics and a spirit of public service. In order to achieve these goals legal education shall be broad based, multi-disciplinary, multi-functional and contextual.

4. As the existing laws of the State relating to higher education and universities were found to be inadequate to satisfy the above objectives, it was considered expedient to bring a new legislation.

5. The Maharashtra National Law University Bill, 2013 (L. A. Bill No. XXXIV of 2013) in this behalf has been introduced in the Monsoon Session of the State Legislature. However, the same is pending in Legislative Assembly. In respect of Academic Year 2015-16, as informed by the convener of the Common Law Admission Test (CLAT), it would be necessary that the Vice-Chancellor of the university shall complete the process for Common Law Admission Test before May 2014. The Government, therefore, considered it expedient to immediately make a law, to establish and incorporate National Law Universities in the State for the development and advancement of legal education and for the purposes of imparting specialized and systematic instruction, training and research in systems of law and for the matters connected therewith or incidental thereto.

6. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that, circumstances existed which rendered it necessary for him to take immediate action to make a law for the aforesaid purposes, the Maharashtra National Law University Ordinance, 2014 (Mah. Ord. V of 2014), was promulgated by the Governor of Maharashtra on the 18th February 2014.

7. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 21st February 2014.

RAJESH TOPE,
Minister for Higher Education.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

(i) *Clause 3(1).*—This clause empowers the State Government to appoint by notification in the *Official Gazette*, the date or dates on which the Universities specified in the Schedule may be established.

(ii) *Clause 3(2).*—This clause empowers the State Government, from time to time, by notification in the *Official Gazette*, establish any new university.

(iii) *Clause 3(6).*—This clause empowers the State Government, to specify the place of headquarters of the university, by notification in the *Official Gazette*.

(iv) *Clause 44.*—This clause empowers the Executive Council of the Universities to frame regulations, to provide for the administration and management of affairs of the university.

(v) *Clause 52.*—This clause empowers the State Government to remove by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of this Act, within a period of two years from the date of commencement of this Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

It is proposed to establish three National Law Universities in the State one each at Aurangabad, Mumbai and Nagpur, respectively. It is proposed to establish the National Law Universities at Aurangabad and Mumbai at the first instance. The non-recurring expenditure on this count is estimated to Rs. 2,73,66,70,000 and the estimated recurring expenditure on this count is estimated at Rs. 14,35,97,583. The said expenditure will have to be met out of the Consolidated Fund of the State. It is also proposed to establish a National Law University at Nagpur. However, since the preliminary work in that regard is yet to complete, it is not possible to ascertain the amount of recurring and non-recurring expenditure, for the said purpose. However, on such establishment of the University at Nagpur, certain recurring and non-recurring expenditure will have to be met out of the Consolidated Fund of the State.

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सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Regional and Town Planning (Amendment and Continuance) Bill, 2014 (L. A. Bill No. V of 2014), introduced in the Legislative Council on the 24th February 2014, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. V OF 2014.

A BILL

further to amend the Maharashtra Regional and Town Planning Act, 1966.

Mah. XXXVII of 1966. WHEREAS the Governor of Maharashtra with a view to amend the Maharashtra Regional and Town Planning Act, 1966, promulgated the Maharashtra Regional and Town Planning (Amendment) Ordinance, 2013, on the 4th October 2013 (hereinafter referred to as "the said Ordinance");
Mah. Ord. XV of 2013.

AND WHEREAS upon the re-assembly of the State Legislature on the 9th December 2013, at Nagpur, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L. A. Bill No. XXXVI of 2013, on the 11th December 2013 ;

AND WHEREAS the said Bill could not be passed by the State Legislature, as the session of the State Legislature was prorogued on the 20th December 2013 ;

AND WHEREAS as provided by article 213 (2) (a) of the Constitution of India, the said Ordinance ceased to operate after 19th January 2014, the date on which the period of six weeks from the date of re-assembly of the State Legislature expired ;

AND WHEREAS it is considered expedient to continue the operation of the said Ordinance after incorporating certain minor amendments to the said Act ;

AND WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance after incorporating certain minor amendments to the Maharashtra Regional and Town Planning Act, 1966, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Regional and Town Planning (Amendment and Continuance) Ordinance, 2014, on the 20th February 2014 ;

Mah.
XXXVII
of 1966.
Mah.
Ord. VI
of 2014.

AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows :—

Short title and
commencement.

1. (1) This Act may be called the Maharashtra Regional and Town Planning (Amendment and Continuance) Act, 2014.

(2) It shall be deemed to have come into force on the 4th October 2013.

Amendment of
Heading of
Chapter III of
Mah. XXXVII
of 1966.

2. In Chapter III of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the principal Act"), under the heading "DEVELOPMENT PLAN", for sub-heading "(a) Preparation, submission and sanction to Development plan.", the following sub-heading shall be substituted, namely :—

Mah.
XXXVII
of 1966.

"(a) Declaration of intention, preparation, submission and sanction to Development plan."

Amendment of
section 21 of
Mah. XXXVII
of 1966.

3. In section 21 of the principal Act,—

(a) in sub-section (2), for the words "prepare a draft Development plan and publish a notice of such preparation in the *Official Gazette*" the words "declare its intention to prepare a draft Development plan, prepare such plan and publish a notice of such preparation in the *Official Gazette*" shall be substituted ;

(b) in sub-section (4),—

(1) for the words "If the draft Development plan is not submitted" the words and figures "If the declaration of intention to prepare Development plan under section 23 is not made or if the draft Development plan is not submitted" shall be substituted ;

(2) for the words "the concerned Divisional Deputy Director of Town Planning or an officer nominated by him who is not below the rank of Assistant Director of Town Planning may, after carrying out the necessary survey of the area and preparing an existing-land-use map in consultation with the Director of Town Planning", the words "the concerned Divisional Joint Director or Deputy Director of Town Planning and Valuation Department or an officer not below the

rank of an Assistant Director of Town Planning nominated by him, as the case may be, may after declaring the intention, carry out necessary survey of the area and prepare an existing-land-use map in consultation with the Director of Town Planning and" shall be substituted ;

(c) in sub-section (4A),—

(1) the figures "23," and "28" shall be deleted ;

(2) for the words "the concerned Divisional Deputy Director of Town Planning or an Officer nominated by him who is not below the rank of Assistant Director of Town Planning" the words "the concerned Divisional Joint Director or Deputy Director of Town Planning and Valuation Department or an officer nominated by him not below the rank of an Assistant Director of Town Planning, as the case may be," shall be substituted ;

(3) the following provisos shall be added, namely :—

"Provided that, the said Officer shall exercise all the powers and perform all the duties of the Planning Authority within such period as may be specified by an order by the Director of Town Planning, having regard to the stage of preparation of Development plan :

Provided further that, the period specified under the first proviso shall not exceed the original period stipulated under the relevant section."

4. To section 25 of the principal Act, the following proviso shall be added, namely :—

Amendment of section 25 of Mah. XXXVII of 1966.

"Provided that, the period so extended shall not in any case exceed one year in the aggregate."

5. In section 26 of the principal Act, in sub-section (1),—

Amendment of section 26 of Mah. XXXVII of 1966.

(1) before the first proviso, the following proviso shall be inserted, namely :—

"Provided that, in case of a Municipal Corporation having population of ten lakhs or more as per the latest census, the period for inviting objections and suggestions shall be sixty days from the date of notice in the *Official Gazette* :";

(2) in the first proviso, for the words "Provided that" the words "Provided further that" shall be substituted ;

(3) for the second proviso, the following proviso shall be substituted, namely :—

"Provided also that, the period so extended shall not in any case, exceed—

(i) twelve months, in the aggregate, in case of a Municipal Corporation having a population of ten lakhs or more, as per the latest census figures, and

(ii) six months, in the aggregate, in any other case."

6. In section 28 of the principal Act,—

Amendment of section 28 of Mah. XXXVII of 1966.

(a) in sub-section (2), for the second proviso, the following proviso shall be substituted, namely :—

"Provided further that, where the Divisional Joint Director or Deputy Director of the Town Planning and Valuation Department or

an Officer nominated by him under sub-section (4) of section 21, as the case may be, exercises the powers and performs the duties of the Planning Authority, then the Planning Committee may consist of such Divisional Joint Director or Deputy Director or, as the case may be, of such officer.”;

(b) in sub-section (3), for the words “not later than two months from the date of its appointment” the words “within a period of two months from the date of its appointment or within such extended period as the Planning Authority may specify” shall be substituted.

Amendment of
section 30 of
Mah. XXXVII
of 1966.

7. In section 30 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that, the State Government may, on an application by a Planning Authority or the said Officer by an order in writing, and for adequate reasons which should be recorded, extend from time to time, the said period by such further period as may be specified in the order but not in any case exceeding,—

(i) twelve months, in case of a Municipal Corporation having population of ten lakhs or more, as per the latest census figures, and

(ii) six months, in any other case, as may be specified in such order.”.

Amendment of
section 31 of
Mah. XXXVII
of 1966.

8. In section 31 of the principal Act,—

(a) in sub-section (1), for the first proviso, the following proviso shall be substituted, namely:—

“ Provided that, the State Government may, if it thinks fit, whether the said period has expired or not, extend from time to time, by notification in the *Official Gazette*, the period for sanctioning the draft Development plan or refusing to accord sanction thereto, by such further period not exceeding,—

(i) twelve months, in case of a Municipal Corporation having population of ten lakhs or more, as per the latest census figures, and

(ii) six months, in any other case, as may be specified in such notification:” ;

(b) in sub-section (2),—

(i) for the words and figure “Class I officer” the words and letter “Group A officer” shall be substituted;

(ii) after the words “to the State Government” the following shall be inserted, namely:—

“within one year from the date of publication of notice under second proviso to sub-section (1)” ;

(c) to sub-section (3), the following provisos shall be added, namely:—

“Provided that, the time-limits as provided in sub-sections (1) and (2) shall not apply for according sanction to the modifications published under sub-section (1):

Provided further that, the Government shall take final decision regarding such modifications within one year from the date of receipt of the report from the officer appointed under sub-section (2).”.

9. After section 148 of the principal Act, the following section shall be inserted, namely :—

Insertion of section 148-A in Mah. XXXVII of 1966.

“148-A. In computing the period, in relation to any Development plan, Regional plan or scheme under the provisions of Chapters II, III, IV and V of this Act, the period or periods during which any action could not be completed under the said Chapters, due to any interim order of any Court, shall be excluded.”

Exclusion of time in certain cases.

10. For the removal of doubt it is hereby declared that,—

Removal of doubt.

Mah.
..... of
2014.

(i) where the provisions of the principal Act, prior to its amendment by the Maharashtra Regional and Town Planning (Amendment and Continuance) Act, 2014 (hereinafter referred to as “the said Act”) do not fix any time-limit for doing anything, the time-limit for doing such thing fixed in accordance with the provisions of the principal Act, as amended by the said Act shall be reckoned from the date of commencement of the said Act ;

(ii) where the provisions of sections 21, 25, 26, 28, 30 and 31 of the principal Act, prior to its amendment by the said Act, provide for time-limit for doing anything, which has been revised by the said Act, the additional period, if any, due to such revision shall be reckoned from the date of expiry of the original time period obtaining in the relevant provision, prior to the amendment of the principal Act, by the said Act or the date of commencement of the said Act, whichever is later.

Mah.
Ord. VI
of 2014.

11. (1) The Maharashtra Regional and Town Planning (Amendment and Continuance) Ordinance, 2014, is hereby repealed.

Repeal of Mah. Ord. VI of 2014 and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

12. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, by order published in the *Official Gazette*, give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

Power to remove difficulty.

Mah.
..... of
2014.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of the Maharashtra Regional and Town Planning (Amendment and Continuance) Act, 2014.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS.

Sections 21 to 31 of the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966), deal with the preparation, submission and sanction to Development plan. By the Maharashtra Regional and Town Planning (Second Amendment) Act, 2010 (Mah. X of 2011), which has come into force on the 5th April 2011, the time-limits for preparation, submission and sanction to the Development plan have been revised, with a view to expediting the process therefor so as to complete the same within a period of three and half years to four years.

2. The Act provided uniform time-limits for completing the various stages of preparation, submission and sanctioning of Development plan, irrespective of whether such plan is for a small town or a Metropolitan City like Mumbai. It was noticed that the planning authorities of the bigger cities, having regard to area, rapid urbanization and the complex problems arising therefrom, were experiencing time-constraints in preparing the Development plans and submitting them for sanctioning within the stipulated time-limits. It was also observed that, the time-limit of thirty days then obtaining in sub-section (1) of section 26 of the Act, for inviting objections and suggestions, was not adequate for big cities.

3. The work of preparation of the revised draft Development plan for Brihan Mumbai was then in progress and having regard to the above circumstances, the Planning Authority had conveyed that it may not be possible for it to publish the draft Development plan within the statutory time-limit. In the light of the above, it became necessary to urgently incorporate suitable provisions in the said Act for granting extension of the then stipulated time-limits for the bigger cities having population of ten lakh or more as per the latest census. It was also necessary to urgently incorporate provisions for removal of doubt regarding application of the amended time-limits.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966), for the purposes aforesaid, the Maharashtra Regional and Town Planning (Amendment) Ordinance, 2013 (Mah. Ord. XV of 2013) was promulgated by the Governor of Maharashtra on the 4th October 2013.

5. Thereafter, upon the re-assembly of the State Legislature on the 9th December 2013, at Nagpur, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly, as L. A. Bill No. XXXVI of 2013, on the 11th December 2013. However, the said Bill could not be passed, as the session of the State Legislature was prorogued on the 20th December 2013. As provided by article 213 (2) (a) of the Constitution of India, the said Ordinance ceased to operate after 19th January 2014. However, the Government considered it expedient to continue the operation of the said Ordinance after incorporating therein certain further minor amendments to the said Act.

6. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the provisions of the said Ordinance, after incorporating certain minor amendments to the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966), for the purposes aforesaid, the Maharashtra Regional and Town Planning (Amendment and Continuance) Ordinance, 2014 (Mah. Ord. VI of 2014), was promulgated by the Governor of Maharashtra on the 20th February 2014.

7. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,

Dated the 23rd February 2014.

PRITHVIRAJ CHAVAN,

Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of Legislative power, namely :—

Clause 3(a).—This clause which seeks to amend sub-section (2) of section 21 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as “the principal Act”), empowers the Planning Authority to declare its intention to prepare a draft Development plan, prepare such plan and publish a notice of such preparation in the *Official Gazette*.

Clause 7.—This clause which seeks to substitute the first proviso to sub-section (1) of section 30 of the principal Act, empowers the State Government, to extend the period for the period for submission of the draft Development plan, by such further period not exceeding,—

(i) twelve months, in case of a Municipal Corporation having a population of ten lakhs or more, as per the latest census figures, and

(ii) six months, in any other case.

Clause 8(a).—This clause which seeks to amend sub-section (1) of section 31 of the principal Act, empowers the State Government under the first proviso, to extend by notification in the *Official Gazette*, the period for sanctioning the draft Development plan or refusing to accord sanction thereto, by such further period not exceeding,—

(i) twelve months, in case of a Municipal Corporation having a population of ten lakhs or more, as per the latest census figures, and

(ii) six months, in any other case.

Clause 12.—This clause empowers the State Government to remove, by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of this Act, within a period of two years from the date of commencement of this Act.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

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सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Village Panchayats (Amendment) Bill, 2014 (L. C. Bill No. I of 2014), introduced in the Maharashtra Legislative Council on the 24th February 2014, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L. C. BILL No. I OF 2014.

A BILL

further to amend the Maharashtra Village Panchayats Act.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Village Panchayats (Amendment) Ordinance, 2014, on the 30th January 2014 ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act

of the State Legislature; it is hereby enacted in the Sixty-fifth Year of the Republic of India, as follows :--

Short title and commencement. 1. (1) This Act may be called the Maharashtra Village Panchayats (Amendment) Act, 2014.

(2) It shall be deemed to have come into force on the 30th January 2014.

Insertion of section 54-1A in III of 1959. 2. In Chapter III-A of the Maharashtra Village Panchayats Act III of (hereinafter referred to as "the principal Act"), before section 54-A, the following section shall be inserted, namely :—

Special provisions relating to village and Gram Sabha.

"54-1A. Notwithstanding anything contained in section 4, 5 or any other provisions of this Act, in the Scheduled Areas,—

(a) a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs, and which is declared as a village in the prescribed manner shall be the village for the purposes of this Chapter ;

(b) every village, so declared under clause (a), shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the panchayat at the village level and a panchayat may comprise of one or more than one of such villages."

Repeal of Mah. Ord. II of 2014 and saving.

3. (1) The Maharashtra Village Panchayats (Amendment) Ordinance, 2014, is hereby repealed.

Mah. Ord. II of 2014.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance (including any notification issued) shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

The Parliament has, with a view to extend the provisions of the Part IX of the Constitution, relating to Panchayats in Scheduled Areas, enacted the Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (40 of 1996) (for short referred to as "PESA"). In pursuance of the said Act of Parliament, the Maharashtra Village Panchayats Act (III of 1959) has been amended by Mah. XXVII of 2003, by inserting a separate Chapter III-A containing special provisions for *Gram Sabha* and Panchayat in Scheduled Areas.

2. In pursuance of PESA, it was considered expedient to ensure that any habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs may be declared as a village and on such declaration each such village shall have a *Gram Sabha*. This would lead to deepening of democratic decentralization and greater participation of the residents in the Scheduled Areas, in Panchayati Raj System, which is limited due to often remote and dispersed nature of their habitation. This would also ensure that the *Gram Sabhas* of such villages can participate in development by using the rights conferred upon such *Gram Sabhas* under the PESA. It was, therefore, considered expedient to amend the Maharashtra Village Panchayats Act (III of 1959), for the purpose, immediately.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act (III of 1959), for the purposes aforesaid, and, therefore, promulgated the Maharashtra Village Panchayats (Amendment) Ordinance, 2014 (Mah. Ord. II of 2014), on the 30th January 2014.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 14th February 2014.

JAYANT PATIL,
Minister for Rural Development.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative power, namely :—

Clause 2.—This clause seeks to insert a new section 54-1A in the Maharashtra Village Panchayats Act (III of 1959). Under the said proposed section 54-1A, power is conferred on the State Government to prescribe by rules, the manner in which a habitation or a group of habitations or a hamlet or group of hamlets comprising a community and managing its affairs in accordance with traditions and customs may be declared as a village in a Scheduled Area, for the purposes of the Chapter III-A of the said Act.

2. The above-mentioned proposal for delegation of Legislative power is of a normal character.

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सोमवार, फेब्रुवारी २४, २०१४/फाल्गुन ५, शके १९३५

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. Act. No. II of 2014), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. II OF 2014.

(First published, after having received the assent of the Hon'ble President in the "Maharashtra Government Gazette" on the 24th February 2014).

An Act to regulate and promote the construction, sale, management and transfer of flats on the ownership basis in the State of Maharashtra and to establish the Housing Regulatory Authority and Housing Appellate Tribunal and to provide for matters connected therewith or incidental thereto.

Mah. XLV of 1963. WHEREAS the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, though enacted to provide for relief to flat purchasers against sundry abuses, malpractices and difficulties related to the construction, sale, management and transfer of flats, it is noticed by the State Government that, the said Act did not provide for an effective implementing arm for its various statutory provisions, as the flat purchasers could only approach consumer forum or civil court for acts of omission or commission regarding provisions of the said Act;

AND WHEREAS the Government considers it expedient to remove information asymmetry by ensuring full disclosure by promoters or developers and also to ensure compliance of agreed terms and conditions while registering, monitoring and regulating housing projects by the Housing Regulatory Authority and to usher in transparency and discipline in the transactions of flats and put a check on abuses and malpractices;

AND WHEREAS it is also considered expedient to establish the Housing Regulatory Authority and the Housing Appellate Tribunal for ensuring effective implementation of the law and to promote planned and healthy development and construction, sale, transfer and management of flats, residential buildings, and other similar properties, with a view to protecting, on the one hand, public interest in relation to the conduct and integrity of promoters and other persons engaged in the development of such flats, residential buildings and other similar properties, and, on the other, facilitating the smooth and speedy construction and maintenance of such flats, buildings and properties;

AND WHEREAS it is expedient to make a comprehensive law to regulate and provide for promotion of the construction, sale, management and transfer of flats on the ownership basis in the State of Maharashtra, and to establish the Housing Regulatory Authority and the Housing Appellate Tribunal for effective implementation thereof and also to provide for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

Short title,
extent and
commencement.

1. (1) This Act may be called the Maharashtra Housing (Regulation and Development) Act, 2012.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “advertisement” means visible representation made to the general public either through announcement or display or in any other manner whatsoever, offering for sale a flat or plot or inviting persons to take such flat or plot on ownership basis and to make advances or deposits for such purposes;

(b) “apartment” and “apartment owner” shall have the same meanings as respectively assigned to them in the Maharashtra Apartment Ownership Act, 1970;

(c) “Apex Body” or “Federation” means an independent body formed by and consisting of all the co-operative societies or companies or

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condominiums or any other legal entity, constituted of the flat purchasers in various buildings with or without wings located within a layout, where each such co-operative society or company or condominium or any other legal entity, as the case may be, shall co-operate in the maintenance and administration of common areas and amenities and facilities provided in the layout but shall independently retain control of its own internal affairs and administration in respect of each of the buildings for which they are formed;

(d) "carpet area" shall have the same meaning as assigned to it in the relevant Development Control Regulations ;

(e) "common areas and amenities and facilities of a layout" means the areas, amenities and facilities intended for common use of apartment owners in a layout and includes park, recreational ground, play ground, open space, path, pathway, alleyway or garden located outside the area of any building or buildings, street lights, securities, water and electric supply, sewerage, drainage, public works, fire fighting systems and works, water tanks, other utilities and services, and the like, provided or to be provided by the promoter within the layout but shall not include parking spaces or garages;

(f) "Competent Authority" means the Competent Authority appointed under section 21 ;

(g) "compulsory open space" means the minimum open space permitted and approved to be kept as such while constructing a building or buildings by the local Planning Authority under the Development Control Regulations or under any law for the time being in force ;

(h) "conveyance" means the legal instrument of transferring property, property rights, and title from one person or legal entity to another person or legal entity through registered deed and shall include lease, sub-lease or assignment;

(i) "development", with its grammatical variations and cognate expressions, means to carry out development of building or the making of any material change in any building and includes redevelopment;

(j) "development charges" means the cost of external development work to be carried out by the local authority;

(k) "development works" means the internal development works and external development works;

(l) "external development works" means infrastructure work such as roads and road systems, landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station or any other work which may have to be executed by the local authority;

(m) "flat" means a separate and self-contained set of premises used or intended to be used for residence, office, show-room, shop, godown

or for carrying on any industry or business and the premises forming part of the building and includes an apartment.

Explanation. — If provision is made for sanitary, washing, bathing or other conveniences as common to two or more sets of premises, the premises shall be deemed to be separate and self-contained ;

(n) "Housing Appellate Tribunal" means the Housing Appellate Tribunal established under section 36;

(o) "Housing Regulatory Authority" means the Housing Regulatory Authority established under section 22;

(p) "internal development works" includes roads, footpaths, water supply, sewers, drains, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water or any other work in the boundary of a layout necessary for its proper development;

(q) "layout" means the schematic planning and,—

(i) development of more than one building, except for building accessory to the main building, proposed on any land; or

(ii) development or redevelopment of any tract of land admeasuring two thousand square meters or more in a residential or commercial or in an industrial zone, including its division or sub-division into plots;

(r) "limited common areas and facilities of a building" means entrance hall, staircases, lift, common passages on every floor, fire fighting systems within building including fire chute, refuge areas, garbage disposal area including garbage chute, service floors or terraces above the upper most floor of the building and includes all areas in the building except parking spaces and utility areas;

(s) "local authority" means the local authority as defined under clause (15) of section 2 of the Maharashtra Regional and Town Planning Act, 1966;

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of 1966.

(t) "marketing" means advertising for sale and promotion for sale of any flat or land in any project by the promoter;

(u) "Member", in relation to the Housing Regulatory Authority, means the member of the Housing Regulatory Authority and includes the Chairperson thereof; and, in relation to the Housing Appellate Tribunal, means the member of the Housing Appellate Tribunal and includes the Chairperson thereof;

(v) "open space" means an area forming an integral part of a site left open to the sky;

(w) "parking space" means an enclosed or unenclosed, covered or open area which is sufficient in size to park vehicles;

(x) "prescribed" means prescribed by rules made under this Act;

(y) "project" means a housing project under this Act;

(z) "promoter" means a person, a developer or builder and includes a partnership firm or limited liability firm or any body or association of persons whether registered or not and who constructs or causes to be constructed a block or building of flats for the purpose of disposing of by sale or otherwise some or all of them to other person, or to a company, co-operative society or other association of persons, and includes his assignees, and where the person who builds and the person who disposes of are different persons, the term includes both;

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(za) "Registrar" means the Registrar as defined in the Maharashtra Co-operative Societies Act, 1960 or as the case may be, in the Companies Act, 1956;

(zb) "regulations" means the regulations made under section 52;

(zc) "Schedule" means the Schedule appended to this Act;

(zd) "to construct a block or building of flats" includes converting a building or part thereof into flats;

(ze) "Township" means an area,—

(i) where more than one layout is proposed or approved on any land; and

(ii) where the land under development admeasures forty hectares or more at one place, continuous, unbroken and uninterrupted;

(zf) "utility area" means dry balconies, flower beds, cupboard niches, elevation boxes, decks, pocket terraces, open spaces, and the like, within or attached to a flat.

3. (1) Notwithstanding anything contained in any other law for the time being in force, a promoter who intends to construct or is constructing or constructs a block or building of flats, which is not for his personal use, shall, in all transactions with persons intending to take or taking one or more of such flats, be liable to give or produce, or cause to be given or produced, the information and the documents mentioned hereinafter in this section and also as may be prescribed.

Disclosures
to be made
by
promoter.

(2) A promoter, who constructs or is constructing or intends to construct such block or building of flats, shall,—

(a) make full and true disclosure of the nature of his title to the land on which the flats are constructed or are to be constructed; such title to the land as aforesaid having been duly certified by an Attorney-at-law, or by an Advocate of not less than three years standing, and having been duly entered in the property card or extract of Village Forms VI or VII and XII or any other relevant revenue record :

Provided that, if such land is owned by another person, a duly registered copy of the agreement or Power of Attorney, as the case may be, by which the owner, including his legal heirs, executors and

administrators, of such land has granted to the promoter or assigns the development rights of the real estate project, shall also be disclosed;

(b) make full and true disclosure of all encumbrances on such land, including any right, title, interest or claim of any party in or over such land;

(c) make full and true disclosure of his enterprise details such as name, registered address, type of enterprise, registration details under which it is registered;

(d) disclose the name and address of the architect, structural engineer and contractor including turn-key contractor, if any, retained for construction of the building or flats;

(e) disclose the information relating to the number and size of plots, layout plan, carpet areas, and utility areas of the flat, Floor Space Index or the Transfer of Development Rights or additional Floor Space Index consumed in the building of which flats are under sale and limited common areas and facilities of the building and common areas and amenities and facilities of the layout proposed to be provided therefor;

(f) give inspection, on seven days' notice or demand, of the plans, structural design and specifications of the building in which flats are being offered for sale or are being marketed, built or to be built on the land, duly certified by an Architect till such time as they are approved by the local authority, and when such plans and specifications, having been approved by the local authority, which he is required to do under any law for the time being in force, then such approved plans and specifications;

(g) disclose the building-wise time schedule of completion of each phase of the project which shall always be subject to *force majeure* event;

(h) disclose the time schedule for connecting the project with the municipal services such as sewerage, water supply, electricity, drainage, and the like, as applicable, which shall always be subject to *force majeure* event;

(i) disclose the nature of fixtures and fittings with regard to the flooring and sanitary fittings and the provision for one or more lifts provided or to be provided, with particulars in respect of the brand of the items of fixtures, fittings and lift if they are branded or otherwise the price range of the items, if not branded;

(j) disclose on reasonable notice or demand, if the promoter is himself the builder, the prescribed particulars in respect of the design, the type of concrete, the materials to be used in the construction of the building and the technology, prefabricated, precast, earthquake resistant, and the like, and if the promoter is not himself the builder, disclose, on such notice or demand, all agreements, and where there is no written agreements, the details of all agreements, entered into by him with the architect, structural

engineer and contractors including turn-key contractors, regarding the prescribed particulars in respect of design, materials and construction of the building;

(k) specify in writing the date by which possession of the flat with all the amenities is to be handed over;

(l) prepare and maintain a list of flats with their numbers built or to be built;

(m) prepare and maintain list of parking spaces provided or to be provided, and identified by separate numbers;

(n) state in writing, the nature of the organization of persons to be constituted and to which title is to be passed, and the terms and conditions governing such organization of persons, who have taken or are to take the flats;

(o) display or keep all the documents, plans or specifications or copies thereof referred to in clauses (a), (b), (c), (d), (e) and (f) at the site and at the promoter's registered office and permit inspection thereof to persons intending to take or taking one or more flats;

(p) disclose the names, addresses and contact numbers of the agents, property dealers, brokers or middlemen, if any, by whatever name called, duly authorized by the promoter ;

(q) give such other information and documents as may be prescribed.

(3) In case of a layout, in addition to the provisions of sub-section (2), the promoter shall also disclose,—

(a) the phase-wise layout plan of the housing project;

(b) the plan of phase of the development works in which flats for sale is marketed in the project;

(c) the details of the parts of the colony or apartments and the appurtenant areas that are intended to be kept as common areas, amenities and facilities of layout in respect of the phase being offered for sale or marketed;

(d) aggregate area in square meters of the parks, recreational grounds, gardens and play-grounds in a layout.

4. (1) Every promoter of the project shall make an application, in the prescribed form, to the Housing Regulatory Authority for registration of the project and for displaying the project on the website of the Housing Regulatory Authority, alongwith such fees, not exceeding fifty thousand rupees, as may be prescribed:

Registering the project and displaying it on the website of Housing Regulatory Authority.

Provided that, no such registration and displaying of the project or phase of such project shall be required,—

(i) when the area of the land proposed to be developed into a project or phase of such project does not exceed two hundred fifty square meters;

(ii) when the total number of flats proposed to be developed into a project inclusive of all phases is less than five;

(iii) where the promoter has received occupation certificate from the concerned local authority in respect of development of such flats or the building in such project or phase of the project prior to coming into force of this section;

(iv) where the project is a renovation, repair, reconstruction or redevelopment project which does not involve fresh or new allotment of flats or marketing for sale of flats.

Explanation.—For the purposes of this Act,—

(i) where any project is proposed to be marketed and sold in phases, then every such phase shall be considered as an independent project;

(ii) if a single purchaser of all the flats in a project duly registered by the Housing Regulatory Authority intends to dispose of such flats, by sale or otherwise, then, such single purchaser shall also be required to register and display the project under the provisions of this Act.

(2) The promoter shall enclose following documents alongwith the application under sub-section (1), namely :—

(a) chartered engineer's or chartered architect's authenticated copy of the proposed development of each phase of the project ;

(b) proof of submission of plan for approval of local authority. Approval and sanction from the local authority, as and when available, obtained in accordance with the building regulations and other laws as are applicable, for the project being offered for sale or marketed and such approval and sanction shall be submitted or uploaded on website within seventy-two hours of obtaining the same from the local authority.

(3) The Housing Regulatory Authority shall, within seven days of obtaining the application for the registration of the project from the promoter, register and allot a password to the promoter for access of the website of the Housing Regulatory Authority.

No transaction, including sale or marketing for sale, of flats in new project without registration of the project and displaying it on website of Housing Regulatory Authority.

5. (1) No promoter shall start any transaction including sale or marketing for sale of flats in a new project or phase of such project without displaying such flats on the website of the Housing Regulatory Authority :

Provided that, for projects that are ongoing on the date of commencement of this section and where the occupation certificate is still to be obtained, the promoter shall make application to the Housing Regulatory Authority for registration of its project within such period as may be prescribed.

(2) No promoter shall start sale of a prescribed percentage of flats the area of which shall not exceed ten per cent. of the total area of each of the building in every new project (hereinafter referred to as "Retained Flats"), till occupation certificate from the local authority in respect of that building is obtained by the promoter. The details of such flats shall be displayed on the website of the Housing Regulatory Authority, before the start of any transaction including marketing. The promoter shall be entitled to sell "Retained Flats", in each of the building only after receipt of occupation certificate or building completion certificate from the local authority for that building.

6. The promoter shall, on receiving the password from the Housing Regulatory Authority, through a system of self-entry, access the website and enter the required details of the housing project, within such period as may be prescribed.

Responsibility of the promoter to enter record or details on the website of Housing Regulatory Authority.

7. (1) The Housing Regulatory Authority may cancel the registration of the project, if it is declared by the court of law that the contract, agreement, or power of attorney or instrument or writing from which the promoter derives the right to the land or development of the land, is invalid :

Cancellation of registration.

Provided that, no order of cancellation of registration of the project under this sub-section shall be issued by the Housing Regulatory Authority unless a reasonable opportunity of being heard is given to the promoter.

(2) Upon issuing the order of cancellation, the Housing Regulatory Authority shall debar the promoter from accessing its website in respect of the project so cancelled.

8. No promoter shall issue or publish an advertisement or prospectus, offering for sale or otherwise, any flat or inviting persons who intend to take such flats to make advance payments or deposits, without displaying the project or phase on the website of the Housing Regulatory Authority.

Issuing of advertisement or prospectus inviting advance or deposit.

9. (1) Notwithstanding anything contained in any other law for the time being in force, a promoter who intends to construct or constructs a block or building of flats all or some of which are taken or to be taken on ownership basis or otherwise, shall, before, he accepts any sum of money as advance payment or deposit exceeding twenty per cent. of the sale price, enter into a written agreement for sale with each of such persons who are to take or have taken such flats, and the agreement shall be registered under the Registration Act, 1908 (hereinafter, in this section, referred to as "the Registration Act") and such agreement shall be in the prescribed form.

Promoter before accepting advance payment of deposit, beyond twenty per cent., to enter into agreement and agreement to be registered.

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(2) The agreement to be entered into under sub-section (1) shall contain, *inter alia*, the particulars as specified in clause (a) of this sub-section and to such agreement there shall be attached the copies of the documents specified in clause (b) thereof,—

(a) particulars,—

(i) the plans and specifications approved by the local authority and all other approvals required under any law, as applicable;

(ii) the date by which the possession of the flat is to be handed over to the purchaser;

(iii) the extent of the carpet area of the flat;

(iv) the extent of the utility area ;

(v) the total price of the flat including the proportionate price of the limited common areas and facilities and parking spaces

which should be shown separately, to be paid by the purchaser of flat; and the intervals at which instalments thereof may be paid;

(vi) allotment of fixed parking space to the flat purchaser :

Provided that, no parking spaces shall be allotted in minimum open space;

(vii) the nature of the organization to be constituted of the persons who have taken or are to take the flats ;

(viii) the nature, extent and description of limited common areas and facilities of a building;

(ix) the aggregate area of park, garden, recreation ground and playground proposed to be provided for in a lay-out;

(x) the nature, extent and description of common areas and amenities and facilities of a lay-out, if any;

(xi) Statement of the use for which the flat is intended and restriction on its use, if any;

(xii) percentage of undivided interests in the limited common areas and facilities of the building, pertaining to the flat agreed to be sold;

(b) copies of documents,—

(i) the certificate by an Attorney-at-law or an Advocate under clause (a) of sub-section (2) of section 3;

(ii) Property Card or extract of Village Forms VI or VII and XII or any other relevant revenue record showing the nature of the title of the promoter to the land on which the flats are constructed or are to be constructed;

(iii) the plans and specifications of the flats approved by the local authority.

(3) Any agreement for sale entered into under sub-section (1) shall be presented, by the promoter or by any other person competent to do so under section 32 of the Registration Act, at the proper registration office for registration within the time allowed under sections 23 to 26 (both inclusive) of the Registration Act and execution thereof shall be admitted before the registering officer by the person executing the document or his representative, assignee or agent, duly authorized, as laid down in sections 34 and 35 of the Registration Act also within the time aforesaid:

Provided that, on presenting a document for registration, as aforesaid, if the person executing such document or his representative, assignee or agent does not appear before the registering officer and admit the execution of the document, then the registering officer shall cause a summons to be issued under section 36 of the Registration Act, requiring the executants to appear at the registration office, either in person or by duly authorized power of attorney holder, at a time fixed in the summons. If the executants fail to appear in compliance with the summons, the execution of the document shall be deemed to be

admitted by them and the registering officer may proceed to register the document accordingly. If the executants appear before the registering officer as required by the summons but deny execution of the document, then the registering officer shall, after giving them a reasonable opportunity of being heard, if satisfied that the document has been executed by them, proceed to register the document accordingly.

47 of 1963. IV of 1882. 10. Where an agreement for sale entered into under sub-section (1) of section 9, remains unregistered for any reason, then, notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any Court, it may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1963, or as evidence of part performance of a contract for the purposes of section 53A of the Transfer of Property Act, 1882, or as evidence of any collateral transaction not required to be effected by registered instrument. Effect of non-registration of agreement.

11. (1) When any person makes an advance or a deposit on the basis of the information contained in the advertisement or prospectus and sustains any loss or damage by reason of any wilful untrue statement included therein, then he shall be compensated by the promoter for any loss that he may have sustained consequent to such information: Responsibilities of promoter.

Provided that, if the person affected on account of such wilful untrue statement, withdraws from the project, the entire amount paid by such person shall be returned to him alongwith interest at the prescribed rate but not exceeding fifteen per cent., per annum.

(2) Promoter shall take all those measures provided in Schedule I for protection and safety of a building.

(3) (a) It shall be the responsibility of the promoter to obtain the occupation certificate or building completion certificate in respect of the building from the concerned local authority as per the building regulations in force and make a copy thereof available to the flat purchasers or unit holders individually or to an organization which is the authorized collective body of flat purchasers or unit holders, as the case may be.

(b) The promoter shall not allow persons to take possession until occupation or completion certificate, as the case may be, where such certificate is required to be given under any law, is duly given by the local authority and no person shall take possession of a flat until such occupation or completion certificate has been duly given by the local authority.

(4) After the possession of the building or flat is handed over to the flat purchasers or unit holders, the flat purchasers or unit holders shall not be permitted to carry out any additions or alterations in the flat or building and the promoter shall not be responsible, if additions and alterations are done in the flat, or building by the flat purchasers or unit holders or occupier, in violation of the building regulations.

(5) (i) It shall be the responsibility of the promoter to provide essential services such as water supply, electricity, light in passages and staircases, lifts and sanitary services as per agreement to the flat purchasers or unit holders of the building or flat or to any person in authorised occupation thereof till such time and in such manner as specified in the agreement of sale and such services shall not, except with just and sufficient notice, be cut-off, withheld, or curtailed. The aforesaid responsibility is subject to the service provider providing the same. If the service provider is unable to provide the aforesaid services, then the promoter shall not be responsible to provide the same.

(ii) The details of the essential supplies and services referred to in clause (i) above shall be kept by the promoter in the form of a statement and shall be made available on demand to the flat purchasers or unit holders or organization of flat purchasers or unit holders.

(iii) If the allottee or flat or unit purchaser or organization fails to pay the outgoings to the promoter, which are payable by the allottee or flat or unit purchaser or organization under this Act, for a period of more than three months, then the promoter may approach the Competent Authority, who may, after giving notice of not less than seven days to such allottee or flat or unit purchaser or organization, as the case may be, cut-off, withhold or in any manner curtail or reduce any essential supply or service enjoyed by such allottee or flat or unit purchaser or organization in the project.

(6) In case the promoter is undertaking a redevelopment project, the provisions of this Act shall apply only in relation to the flats or buildings which are for marketing or sale in open market. The flats or buildings which are entirely constructed for providing permanent alternate accommodation to existing occupants of redevelopment project shall not be governed by the provisions of this Act, but shall be governed by the statute under which such schemes are being framed.

Promoter to maintain separate account of sums taken as advance or deposit and to be trustee therefor and disburse them for purposes for which given.

12. The promoter shall maintain building-wise separate account in any bank of sums taken, by him, from persons intending to take or who have taken flats, deposits including any sums so taken towards the share capital for the formation of co-operative society or a company or towards the outgoings, including ground rent, if any, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any; and he shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes and shall, on demand in writing by an officer appointed, by general or special order, by the State Government for the purpose, make full and true disclosure of all transactions in respect of that account.

The promoter shall also follow the instructions specified in Schedule II. The promoter shall get the accounts maintained for heads mentioned in Schedule II, as provided under this section, audited from a Chartered Accountant registered with the Institute of Chartered Accountants of India.

13. A promoter, while he is in possession and where he collects from persons, who have taken over flats or are to take over flats, sums for the payment of outgoings, shall pay all outgoings, including ground rent, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any, until he transfers the property to the persons taking over the flats, or to the organization of any such persons. Where any promoter fails to pay all or any of the outgoings collected by him from the persons who have taken over flats or are to take over flats, before transferring the property to the persons taking over the flats or to the organization of any such persons, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and shall be responsible for any legal proceedings which may be initiated by such authority or person.

Responsibility for payment of outgoings till property is transferred.

14. (1) In case the development consists of single building then after the plans and specifications of the building, as approved by the local authority as aforesaid, are disclosed or furnished to the person who agrees to take one or more flats, the promoter shall not,-

No alterations or additions without consent after plans are disclosed.

(a) make any alteration in the structure described therein in respect of the flat or flats which are agreed to be taken, without the previous consent of that person;

(b) construct any additional floors or wings in the structure of the building or wing, not disclosed in the agreement, without the previous consent of all the persons who have agreed to take the flats in such building or wing:

Provided that, any alteration or addition required by any government authorities or due to change in law or which are disclosed in the agreement, shall not require previous consent of any or all persons who have agreed to take flats in such building.

(2) (a) In case the development is being carried out on a layout or Township, then after the plans and specifications of the building, as approved by the local authority as aforesaid, are disclosed or furnished to the person who agrees to take one or more flats, the promoter shall not,-

(i) make any alteration in that structure described therein in respect of the flat or flats which are agreed to be taken, without the previous consent of that person;

(ii) construct any additional floors or wings in the structure of the building or wing, not disclosed in the agreement, without the previous consent of all the persons who have agreed to take the flats in such building or wing ;

(iii) make any modification in the location of the recreation ground or garden or park or playground without the consent of those persons who have agreed to take flats on the basis of disclosure of the location of such recreation ground or garden or park or playground and such fact is mentioned in writing in the agreement for sale of such flat by the promoter.

(b) Subject to provisions of clause (a) above, the layout including recreation ground, park, garden and playground disclosed alongwith the building plans, can be amended, modified and varied by the promoter, from time to time, in accordance with the Development Control Regulations including for the utilization of the full development potential available, from time to time.

(c) In case of development under a layout or Township, the promoter shall be entitled to further construction of any new building in the layout or Township at any time after obtaining approval of the local authority in accordance with the building rules or building bye-laws or Development Control Regulations made under any law for the time being in force:

Provided that, the promoter shall not reduce the approved compulsory open spaces of the building or shall not reduce the aggregate area of park, recreational ground, playground and garden in the approved layout in which persons agree to take one or more flats, without the previous consent of all such persons, except that such alteration or amendment is required by the authorities or due to change in applicable laws.

Defects
noticed
within five
years to be
rectified.

15. If any defect in the building or material used, or if any unauthorized change in the construction is brought to the notice of the promoter, within a period of five years from the date of handing over possession of flats, it shall, be rectified by the promoter without further charge to the persons who have agreed to take the flats and in other cases, where the defect or change can not be rectified, such persons shall be entitled to receive reasonable compensation for such defect or change. Where there is a dispute regarding any defect in the building or material used or any unauthorized change in the construction, the matter shall, within a period of five years from the date of handing over possession, on payment of such fee as may be determined by the Housing Regulatory Authority, be referred for decision to such officer not below the rank of an Executive Engineer as the State Government may, by general or special order, specify in this behalf.

Effect of
non-
completion
of project.

16. (a) If the promoter fails to complete construction and obtain occupation certificate of any building or buildings in the project in accordance with the terms of the agreement by the date specified or any further date agreed to by the parties or as may be decided by the Housing Regulatory Authority, the Housing Regulatory Authority may, after giving reasonable opportunity of being heard to the applicant and the promoter, and on being satisfied that the promoter is not able to complete the construction and obtain occupation certificate, pass an appropriate order to enable completion of the construction of that building and obtain occupation certificate thereof. Such order of the Housing Regulatory Authority may, *inter-alia*, provide for,—

(i) formation and registration of a legal entity of sixty per cent. of the flat purchasers in the manner as may be prescribed who have come before the Housing Regulatory Authority ;

(ii) appointment of the legal entity as an escrow agent for taking over possession of the building and area appurtenant thereto, in the manner as may be prescribed ;

(iii) directing the Competent Authority to transfer the Retained Flats in the name of the escrow agent within such period and in the manner as may be prescribed ;

(iv) authorizing escrow agent to appoint contractors, consultants and other agencies required to complete the construction and obtain occupation certificate on such terms and conditions as may be decided by the escrow agent in the manner as may be prescribed :

Provided that, notwithstanding anything contained in any other law for the time being in force, stamp duty or any other taxes, duties and levies shall not be payable on ' Retained Flats ' being transferred to escrow agent under the orders of the Housing Regulatory Authority.

(b) If the promoter, for reasons beyond his control, is unable to give possession of the flat by the date specified, or the further agreed date and a period of three months thereafter, or a further period of three months if those reasons still exist, then, the promoter shall be liable on demand, without prejudice to any other actions to which he may be liable, to refund the amount already received by him in respect of the flat with interest at a rate as may be prescribed including penalty as may be determined by the Housing Regulatory Authority.

17. No promoter shall, after he executes an agreement to sell any flat, mortgage or create a charge on the flat without the previous consent of the person who takes or agrees to take the flat, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 9 is registered, it shall not affect the rights and interests of such persons.

No mortgage, etc., to be created without consent of parties after execution of agreement for sale.

18. (1) Where a co-operative society or a company or a legal entity of persons is to be constituted of flat purchasers in a single building not being part of a layout, the promoter shall submit an application to the competent authority for registration of the co-operative society or the company or any other legal entity, as the case may be, within four months from the date on which the occupation certificate in respect of such building is issued or, minimum sixty per cent. of the flat purchasers in such building have taken possession or the promoter has received full consideration and other amounts for the same, whichever is earlier.

Promoter to take steps for formation of co-operative society, company, Apex Body or Federation.

(2) (a) Where a co-operative society or a company or any other legal entity of persons taking the flats in a layout consisting of more than one building or wings, is to be constituted, the promoter shall form separate and independent co-operative society or company or any other legal entity in respect of each of the buildings or wings. The promoter

shall submit application for formation of co-operative society or company or any other legal entity in respect of each of the building or wing, as prescribed, within four months from the date on which the occupation certificate in respect of such building or wing is issued or, minimum sixty per cent. of the total flat purchasers in such building or wing have taken possession or the promoter has received full consideration and other amounts for the same, whichever is earlier.

(b) Where under clause (a) above, the promoter has formed separate and independent co-operative societies or companies or any other legal entities of the persons taking flats in different structures consisting of more than one building or wing within a layout, then the promoter shall form and register an Apex Body or Federation consisting of all such entities in the layout, within such period as may be prescribed.

(3) The Apex Body or Federation shall administer and maintain common areas and amenities and facilities provided in the layout but its members shall independently retain control of the internal affairs and administration in respect of its own building.

(4) If any property consisting of building or buildings is constructed or to be constructed and the promoter submits such property to the provisions of the Maharashtra Apartment Ownership Act, 1970 by executing and registering a declaration as provided by that Act, then the promoter shall inform the Registrar as defined in the Maharashtra Co-operative Societies Act, 1960, accordingly and in such cases, it shall not be lawful to form any co-operative society or company.

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(5) (a) If the promoter fails within the prescribed period to submit an application to the Registrar,—

(i) for registration of society in the manner provided in the Maharashtra Co-operative Societies Act, 1960;

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(ii) for registration of Apex Body or Federation, in the manner as prescribed,

the Competent Authority may, upon receiving application from the persons who have taken flats from the said promoter, a co-operative society or company or any other legal entity in respect of any of the buildings in the layout, direct the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar concerned, to register the society, the Apex Body or Federation.

(b) No such direction to register any society or Apex Body or Federation, under clause (i) or (ii) above, shall be given to the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar, by the Competent Authority without first verifying the authenticity of the applicant's request and giving the concerned promoter a reasonable opportunity of being heard.

Promoter to
convey title,
etc., and
execute
documents
according to
agreement.

19. (1) In respect of the property wherein only one building is to be constructed and if no period for conveying the title of the promoter to the organization of the flat purchasers is agreed upon, the promoter shall, subject to his right to dispose of the remaining flats, if any, execute the conveyance within four months from the date on which the co-operative society or the company is registered or, as the case may be, the association of the flat purchasers or unit holders is duly constituted. When a promoter has submitted his property to the provisions of the Maharashtra Apartment Ownership Act, 1970 by executing and registering a declaration as required by section 2 of that Act, and no period for conveying the title of the promoter in respect of an apartment to each apartment taker is agreed upon, the promoter

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shall execute the conveyance or deed of apartment in favour of each apartment taker within four months from the date, the apartment taker has entered into possession of his apartment.

(2) In the case of a layout, the said conveyance shall, till such time as the entire development of the layout is completed, be only in respect of the structures of the buildings in which a minimum number of sixty per cent. of total flats are sold, alongwith Floor Space Index consumed in such building, subject to the right of the promoter to dispose of the remaining flats, if any, and receipt of the entire consideration amount and outstanding dues from all the flat purchasers. The conveyance shall further, be subject to the right to use, in common, the internal access roads and recreation areas developed or to be developed in the layout and with the right to use of the open spaces allocated to such building or buildings in terms of the agreement for sale executed by the promoter and the respective flat purchasers:

Provided that, notwithstanding anything contained in this Act or in any agreement or in any judgment, decree or order of any court or in any other law for the time being in force, the promoter shall be entitled to develop and continue to develop the remaining layout land, with the right to use the internal access roads and all the facilities, amenities and services in the layout and to construct any additional structures thereon by consuming the balance Floor Space Index and balance Transfer of Development Right, Floor Space Index and balance additional Floor Space Index relating to the said layout land and any future increase in Floor Space Index and the Transfer of Development Rights, Floor Space Index and additional Floor Space Index therein due to change in the law or the policies of the Government or local authority :

Provided further that, if the Floor Space Index of the plot in a layout is increased due to change in the law or the policies of the Government or local authorities, subsequent to conveyance of any one or more structures to organization of flat purchasers, then increase in Floor Space Index which is proportionate to the Floor Space Index utilized or consumed by the conveyed structure or structures to total Floor Space Index of the layout, shall belong to the organization of flat purchasers of the conveyed structure or structures and it shall not be necessary for the promoter to obtain any consent or permission from the organization of flat purchasers in the said layout land or phase for the purpose of utilizing the balance Floor Space Index or the Transfer of Development Right, Floor Space Index or additional Floor Space Index.

(3) Where the title of the promoter to be conveyed is in respect of the entire undivided or inseparable land underneath all such buildings in a layout, and if no period for executing such conveyance of the entire undivided or inseparable land underneath all such buildings jointly or otherwise in favour of Apex Body or Federation is agreed upon, then such conveyance shall be executed by the promoter in favour of Apex Body or Federation within such time as may be prescribed, after formation of such Apex Body or Federation.

(4) It shall be the duty of the promoter to file with the Competent Authority, within the prescribed period, a copy of the conveyance executed by him. If the promoter fails to execute the conveyance as provided by sub-section (1), (2) or (3), within the prescribed period, the members of such co-operative society, the company or the association of apartment owners or Apex Body or Federation, as the case may be,

may make an application, in writing, to the concerned Competent Authority accompanied by the true copies of the registered agreements for sale, executed with the promoter by each individual member of the society or company or the association or Apex Body or Federation and all other relevant documents, including the occupation certificate, if any, for issuing a certificate that such society, company or association or Apex Body or Federation, as the case may be, is entitled to have an unilateral deemed conveyance, executed in their favour and to have it registered.

(5) The Competent Authority, on receiving such application, within reasonable time and in any case not later than six months, after making such enquiry as deemed necessary and after verifying the authenticity of the documents submitted and after giving the promoter a reasonable opportunity of being heard, on being satisfied that it is a fit case for issuing such certificate, shall issue the certificate to the Sub-Registrar or any other appropriate Registration Officer under the Registration Act, 1908, certifying that it is a fit case of enforcing unilateral execution of conveyance deed conveying the right, title and interest of the promoter in the building or layout plot in favour of the applicant, as deemed conveyance : XVI of 1908.

Provided that, an appeal under section 40 against the order of the Competent Authority can be preferred by any party aggrieved by the said order to the Housing Appellate Tribunal.

(6) On submission of application by such society, the company, the association of apartment owners or Apex Body or Federation, as the case may be, to the Sub-Registrar or the concerned appropriate Registration Officer appointed under the Registration Act, 1908, the certificate issued by the Competent Authority alongwith the unilateral instrument of conveyance, the Sub-Registrar or the concerned appropriate registration officer shall, notwithstanding anything contained in the Registration Act, 1908, register that instrument as deemed conveyance. XVI of 1908.

(7) Upon execution of the conveyance or unilateral deemed conveyance, of a building or buildings in a layout, the organization in whose favour such conveyance is executed shall be entitled in any reconstruction or redevelopment of such building or buildings to the Floor Space Index or the Transfer of Development Right, Floor Space Index or additional Floor Space Index consumed in construction of such building as well as its proportionate share in increase in Floor Space Index as per provision of sub-section (1) and in the event of any reconstruction or redevelopment of the building or buildings being undertaken by the said organization, then, notwithstanding anything contained in any other law for the time being in force, such organization shall be entitled to do so on the portion of land allocated to such building or buildings in terms of the agreement for sale executed by the promoter and the respective flat purchaser without prior permission of the promoter. XVI of 1908.

(8) The promoter or land owner shall convey the layout plot or land to the Apex Body or Federation, subject to the right of the promoter to dispose of the remaining flats, if any, and receipt of the entire consideration amount and outstanding dues from all flat purchasers of all the buildings or structures constructed on the layout plot. If there is any increase in Floor Space Index or the Transfer of Development Right or additional Floor Space Index or any benefits, available on such layout plot, due to changes in the Government or regulatory policies,

after the conveyance or unilateral deemed conveyance of the land under the layout to the Apex Body or Federation, then such increased Floor Space Index, the Transfer of Development Right or additional Floor Space Index and other benefits shall be apportioned to the respective legal entities in proportion to the Transfer of Development Right, Floor Space Index or additional Floor Space Index used for the purpose of construction of the buildings managed by them.

(9) The Apex Body or Federation formed by the legal entities on a layout plot shall manage and administer the common areas and the facilities without having any legal rights, title and interest in the building or buildings in such a layout plot and all legal rights, title and interest in the building or buildings shall belong to the respective entities in whose favour the conveyance of such building or buildings is executed.

20. (1) Every person who has executed an agreement to take a flat shall pay, at the proper time and place, the price, his proportionate share of the municipal taxes, water and electricity charges, ground-rent, if any, and other public charges in accordance with his agreement with the promoter.

General liabilities of flat purchaser.

(2) Any person who has executed an agreement to take a flat and who, without reasonable excuse, fails to comply with or contravenes sub-section (1) shall be punishable with fine which may extend to the amount defaulted.

21. The State Government may, by notification in the *Official Gazette*, appoint an officer, not below the rank of the District Deputy Registrar of Co-operative Societies, to be the Competent Authority, for an area or areas to be specified in such notification and different officers may be appointed as Competent Authority for different local areas for the purposes of exercising the powers and performing the duties under this Act.

Appointment of Competent Authority.

22. (1) With effect from such date and in such areas as the State Government may, by notification in the *Official Gazette*, appoint, there shall be established, for the purposes of this Act, one or more Authorities to be called "the Housing Regulatory Authority".

Establishment of Housing Regulatory Authority.

(2) The Housing Regulatory Authority, constituted under sub-section (1), shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable and to contract, and shall, by the said name, sue or be sued.

23. The Housing Regulatory Authority shall consist of a Chairperson and two or more Members to be appointed by the State Government from amongst persons who have special knowledge of, and professional experience in, the field of public administration, urban development, housing, finance, law or management :

Composition of Housing Regulatory Authority.

Provided that, a person, who is, or has been, in the service of Government shall not be appointed as a Chairperson unless such person is holding or has held the post of the Principal Secretary to the State Government or any equivalent post under the Government of India.

Term of
office of
Chairperson
and other
Members of
Housing
Regulatory
Authority.

24. (1) The Chairperson and other Members shall hold office for a term not exceeding five years, from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier.

(2) The salary and allowances payable to, and the other terms and conditions of services of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of services of the Chairperson and other Members shall not be varied to their disadvantage after their appointment.

(4) An employee of the Government on his selection as Chairperson or Member, shall have to retire from service before joining.

(5) The Chairperson or any Member may relinquish his office by giving in writing to the State Government a notice of not less than three months or be removed from his office in accordance with the provisions of section 26.

(6) The Chairperson or any Member, ceasing to hold office as such, shall not accept any commercial employment in the Housing Sector for a period of one year from the date he ceases to hold such office.

Administrative
powers of the
Chairperson.

25. The Chairperson shall have powers of general superintendence and direction in the conduct of the affairs of the Housing Regulatory Authority and he shall, in addition to presiding over the meetings of the Housing Regulatory Authority, exercise and discharge such administrative powers and functions of the Housing Regulatory Authority as may be prescribed.

Removal of
Chairperson
and Member
of Housing
Regulatory
Authority
from office in
certain
circumstances.

26. (1) The State Government may, by order, remove from office the Chairperson or any Member of the Housing Regulatory Authority, if the Chairperson or such Member, as the case may be, has,-

(a) been adjudged as insolvent; or

(b) been convicted of an offence, which, in the opinion of the State Government, involves moral turpitude; or

(c) become physically or mentally incapable of acting as a Chairperson or Member; or

(d) acquired such financial or other interest as is likely to affect prejudicially his function as a Chairperson or Member; or

(e) so abused his position, as to render his continuance in office prejudicial to the public interest.

(2) No Chairperson or Member shall be removed from his office under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard.

Officers of
Housing
Regulatory
Authority.

27. (1) The Housing Regulatory Authority may appoint such officers and employees, as may be necessary for the efficient discharge of its functions under this Act.

(2) The officers and employees of the Housing Regulatory Authority shall discharge their functions under the general superintendence of its Chairperson. Their salary, allowances and other conditions of service shall be such as may be determined by regulations.

28. (1) The Housing Regulatory Authority shall meet at such places and times, and shall observe such procedure in regard to the transaction of business at its meetings as may be determined by regulations.

Meetings of
Housing
Regulatory
Authority.

(2) The Chairperson, if for any reason, is unable to attend a meeting of the Housing Regulatory Authority, the senior-most Member amongst the Members present at the meeting shall preside :

Provided that, any decision relating to cancellation of registration under section 7 shall not be executed unless the same is decided in a meeting attended by all the Members.

(3) All questions which come up before any meeting of the Housing Regulatory Authority shall be decided by a majority of the members present and voting and, in the event of an equality of votes, the Chairperson or the Member presiding shall have the right to exercise a second or casting vote.

29. (1) The Housing Regulatory Authority shall perform the following functions, namely :—

Functions
of Housing
Regulatory
Authority.

(i) to ensure compliance of the obligations cast upon the promoters and the allottees under this Act and the rules made thereunder;

(ii) to cause an inquiry to be made into compliance of its orders or directions made in exercise of its powers under this Act;

(iii) to levy fees and other charges at such rates and in respect of such services as may be determined by regulations;

(iv) to report matter to the appropriate authority, for taking action against the promoter or an allottee for commission of any offence under any law for the time being in force;

(v) to host and maintain a website of records of all projects within its jurisdiction as database, with all the details as set out herein for displaying under this Act;

(vi) to take measures under section 33;

(vii) to perform such other functions related to Housing Sector as may be entrusted to the Housing Regulatory Authority by the State Government, as may be necessary;

(viii) to make recommendations, notwithstanding anything contained in the Maharashtra Regional and Town Planning Act, 1966, either *suo moto* or on a request from the State Government in matters in the existing Development Control Regulations relating to changes in Floor Space Index and any other related matters, as may be prescribed :

Provided that, the Housing Regulatory Authority shall forward its recommendations within a period of sixty days from the date on which the Government has sought the recommendations :

Provided further that, the Housing Regulatory Authority may request the State Government to furnish such information or documents as may be necessary for the purpose of making recommendations under this sub-section and the Government shall supply such information within a period of seven days from receipt of such request :

Provided also that, if the State Government having considered the recommendation of the Housing Regulatory Authority comes to a *prima facie* conclusion that such recommendation cannot be accepted or needs modifications, it shall refer the recommendation back to the Housing Regulatory Authority for its reconsideration, and the Authority may, within fifteen days from the date of receipt of such reference, forward to the State Government its recommendation after considering the reference made by the Government. After receipt of further recommendation, if any, the State Government shall take a final decision.

(2) Upon receiving a complaint application in this behalf, the Housing Regulatory Authority shall, after hearing the matter from the parties or through their representatives, as the case may be, and after making such enquiry as it deems fit, pass a reasoned order, in writing, within a period of three months from the date of such application or commencement of the *suo moto* proceedings, as the case may be, or within such further time as may be found appropriate by the Housing Regulatory Authority.

(3) On any dispute between promoters, organization of flat purchasers and allottees or flat or unit takers regarding failure on either part to meet the obligations cast upon them under this Act and the rules made thereunder, adjudication may be done by any single member bench of the Housing Regulatory Authority, as the Housing Regulatory Authority may, by regulations determine :

Provided that, nothing in this section shall apply in respect of matters which are subject to the jurisdiction of the Competition Commission established under the Competition Act, 2002.

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2003.

(4)(a) The Housing Regulatory Authority shall prepare and submit, to the State Government, once in every year, the report in such form and at such time as may be prescribed, containing,—

(i) a description of all the activities of the Housing Regulatory Authority for the previous year ; and

(ii) the annual accounts for the previous years.

(b) A copy of the report received under clause (a) above shall be laid as soon as may be after it is received before each House of the State Legislature.

Powers of
Housing
Regulatory
Authority to
call for
information,
conduct
investigations,
etc.

30. Where the Housing Regulatory Authority considers it expedient so to do, it may, by order in writing,—

(a) call upon any promoter, at any time, to furnish in writing, by himself or through his authorized representative, such information or explanation with regard to compliance of the promoter's obligations relating to ownership agreement as the Housing Regulatory Authority may require ;

(b) direct the promoter to produce by himself or through his authorized representative, all such books of accounts or other documents relating to the project or flat under complaint in his custody having a bearing on the subject matter of such complaint and also any other information relating thereto.

31. The Housing Regulatory Authority may, for the discharge of its functions issue such directions, from time to time, to promoters and flat or unit purchasers or organization, as it may consider necessary and such directions shall be binding on all concerned.

Powers of Housing Regulatory Authority to issue directions.

32. Upon cancellation of the registration under sub-section (1) of section 7, the Housing Regulatory Authority shall prohibit the promoter from marketing and selling the flats and buildings constructed for the project of which the registration is cancelled.

Power of Housing Regulatory Authority consequent upon cancellation of registration.

33. The Housing Regulatory Authority shall take all possible measures for the growth and promotion of a healthy, transparent, efficient and competitive real estate market, and in particular, take the following measures, namely :-

Measures to be taken by Housing Regulatory Authority for planned development and promotion of housing sector.

(a) evolve a consensus among the Central Government or the State Government, the Bureau of Indian Standards, urban local bodies, promoters, associations of engineers and architects and other stake holders to follow, on mandatory basis, the structural safety norms as may be prescribed for the area concerned by the National Building Code or Bureau of Indian Standards or statutory provisions of the local building bye-laws as may be modified by the State Government, from time to time ;

(b) suggest to the State Government to establish a framework of standard procedures and norms for speedy processing and grant of planning permissions;

(c) promote the rating of real estate projects and the rating of promoters, by the association of promoters, with a view to improve the confidence level of both investors and consumers through a system of self-regulation, which may be based on the rating parameters developed by Association or Federation of promoters as prescribed;

(d) on behalf of the real estate sector, take up, with the Government, financial institutions, local bodies, regulatory authorities and other concerned stake-holders, advocacy of issues like prompt and easy access to credit or home loans, credible and reliable land title certification system, speedy and transparent registration of properties, effective institutional arrangement for proper upkeep and maintenance of built-up properties, statutory framework for equitable and balanced relationship between promoter and flat or unit purchasers;

(e) promote construction of environment friendly or green buildings and measures for conservation of water and its re-cycling ;

(f) with a view to encouraging construction of structurally safe and affordable housing, promote standardization and use of appropriate construction materials, fixtures, fittings and construction techniques.

Power of
Housing
Regulatory
Authority to
regulate its
own
procedure.

34. (1) The Housing Regulatory Authority shall be guided by the principles of natural justice and, subject to other provisions of this Act and of any rules made thereunder, the Housing Regulatory Authority shall have powers to regulate its own procedure by regulations.

(2) The Housing Regulatory Authority shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of the promoter, authorized representative of the promoter or any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) requisitioning, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it *ex-parte*; and

(h) any other matter which may be prescribed.

Vacancies,
etc., not to
invalidate
proceedings
of Housing
Regulatory
Authority.

35. No act or proceedings of the Housing Regulatory Authority shall be invalid merely by reason of,—

(a) any vacancy in, or any defect in the constitution of the Housing Regulatory Authority; or

(b) any defect in the appointment of a person acting as a Chairperson or Member; or

(c) any irregularity in the procedure of the Housing Regulatory Authority not affecting the merits of the case.

Establishment
of Housing
Appellate
Tribunal.

36. (1) The State Government shall, by notification in the *Official Gazette*, establish a Tribunal to be known as the "Housing Appellate Tribunal" to adjudicate any dispute, hear and dispose of appeal against any direction, decision or order of the Housing Regulatory Authority.

(2) The Housing Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed by the State Government and the selection of the Chairperson of the Housing Appellate Tribunal shall be made by the Government, in consultation with the Chief Justice of the High Court.

(3) A person shall not be qualified for appointment as the Chairperson or a Member of the Housing Appellate Tribunal unless he,—

(a) in the case of Chairperson, has been serving or is a retired Judge of a High Court ;

(b) in the case of a Member has held the post of the Principal Secretary to the State Government or any equivalent post under the Government of India, or a person who is well versed in the field of urban development, housing, finance, law or management.

37. (1) The Chairperson and Members of the Housing Appellate Tribunal shall hold office for a term not exceeding three years, from the date on which they enter upon their offices or until they attain the age of sixty-eight years, whichever is earlier.

Term of office of Chairperson and Members and service conditions.

(2) The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members of the Housing Appellate Tribunal shall be such as may be prescribed and shall not be varied to their disadvantage after their appointment.

(3) The Chairperson or Member of the Housing Appellate Tribunal may relinquish his office by giving in writing to the State Government notice of not less than three months or be removed from his office in accordance with the provisions of section 38.

(4) Any serving person, on his selection as a Chairperson or Member of the Housing Appellate Tribunal shall have to retire from service before joining.

(5) The Chairperson or any Member of the Housing Appellate Tribunal, ceasing to hold office as such, shall not accept any commercial employment in the Housing Sector for a period of one year from the date he ceases to hold such office.

38. (1) The State Government may remove from office, the Chairperson or any Member of the Housing Appellate Tribunal, who has,—

Removal of Chairperson and Member of Housing Appellate Tribunal from office in certain circumstances.

(a) been adjudged an insolvent; or

(b) been convicted of an offence which, in the opinion of the State Government involves moral turpitude; or

(c) become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) acquired such financial or other interest as is likely to affect prejudicially his function as the Chairperson or a Member; or

(e) so abused his position as to render his continuance in the office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or Member of the Housing Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless, the High Court, on a reference being made to it in this behalf by the State Government, has on an enquiry held by it, recommended that the Chairperson or Member ought to be removed on such ground.

(3) The State Government may suspend from office, the Chairperson or a Member of the Housing Appellate Tribunal, as the case may be,

in respect of whom a reference has been made to the High Court under sub-section (2), until the State Government has passed an order on receipt of the report of the High Court on such reference.

Officers of
Housing
Appellate
Tribunal.

39. (1) The State Government shall provide the Housing Appellate Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees of the Housing Appellate Tribunal shall discharge their functions under the general superintendence of the Chairperson of the Housing Appellate Tribunal.

Appeals to
Housing
Appellate
Tribunal.

40. (1) Any person aggrieved by any direction or order or decision of the Competent Authority or the Housing Regulatory Authority may prefer an appeal to the Housing Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be preferred within a period of sixty days from the date on which a copy of the direction, order or decision made by the Competent Authority or by the Housing Regulatory Authority is received by the aggrieved person and it shall be in such form, and accompanied by such fee as may be prescribed :

Provided that, the Housing Appellate Tribunal may entertain any appeal after the expiry of sixty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Housing Appellate Tribunal may, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

(4) The Housing Appellate Tribunal shall send a copy of every order made by it to the parties and to the Housing Regulatory Authority.

(5) The appeal preferred under sub-section (1) shall be dealt with by the Housing Appellate Tribunal as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within ninety days from the date of receipt of appeal :

Provided that, where any such appeal could not be disposed of within the said period of ninety days, the Housing Appellate Tribunal shall record its reasons, in writing, for not disposing of the appeal within the said period.

Powers and
functions of
Housing
Appellate
Tribunal.

41. (1) The Housing Appellate Tribunal shall be bound by the procedure laid down in the Code of Civil Procedure, 1908.

(2) The Housing Appellate Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely :—

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1908.

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(a) summoning and enforcing the attendance of the promoter, authorized representative of the promoter or any person and examining him on oath ;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits ;

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1872.

(d) requisitioning, subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it *ex-parte*; and

(h) any other matter which may be prescribed.

42. Any person aggrieved by any decision or order of the Housing Appellate Tribunal may file an appeal to the High Court within thirty days from the date of receipt of the decision or order of the Housing Appellate Tribunal. Appeal to High Court.

43. Every order passed by the Housing Appellate Tribunal under this Act shall be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of a civil court. Order passed by Housing Appellate Tribunal to be executable as a decree.

44. Whoever fails to comply with or contravenes the provisions of section 4, shall, upon the order by the Housing Regulatory Authority in that regard, be liable to pay the penalty which may extend to rupees one thousand per day of default. Penalty for contravention of section 4.

45. Whoever, without reasonable cause, fails to comply with, or contravenes, the provisions of sections 6, 16 or 17 shall, upon the order by the Housing Regulatory Authority in that regard, be liable to pay the penalty of rupees ten thousand for each day during which such non-compliance continues, or rupees fifty lakhs, whichever is lower. Penalty for contravention of sections 6, 16 or 17.

46. Any allottee, flat or unit purchaser or organization, who fails to comply with, or contravenes, the provisions of the agreement for sale executed by him with the promoter for purchase of flat, including non-payment of any amounts or charges in respect thereof, shall, upon the order by the Housing Regulatory Authority in that regard, be liable to pay the penalty which may extend to rupees ten thousand or one per cent. of the sale price of the property specified in such agreement, whichever is higher. Penalty for non-payment by the allottee or flat or unit purchaser or organization.

47. Any person, who willfully fails to comply with the orders or directions of the Housing Regulatory Authority or the Housing Appellate Tribunal, as the case may be, shall, upon the order by the Housing Regulatory Authority, or the Housing Appellate Tribunal, as the case may be, in that regard, be liable to the imprisonment for a term which may extend to three years or penalty which may extend to rupees ten lakhs or with both. Penalty for non-compliance of orders or directions of Housing Regulatory Authority or Housing Appellate Tribunal.

Penalty for
contravention
of other
provisions
of this Act
or rules
made
thereunder.

48. Any person, other than the promoter, who, without reasonable cause, fails to comply with, or contravenes, any other provisions of this Act or of any rules made thereunder, or does not pay the penalty imposed on him by the Housing Regulatory Authority shall, if no other penalty is expressly provided therefor, upon the order by the Housing Regulatory Authority in that regard, be liable to pay the penalty which may extend to rupees fifty thousand.

Penalty for
non-
compliance
by
promoters.

49. (1) Any promoter who, without reasonable excuse fails to comply with, or contravenes the provisions of section 9, section 12, section 14, section 18 or section 19, shall, upon the order by the Housing Regulatory Authority in that regard, be liable to pay the penalty which may extend to rupees one crore.

(2) Any promoter who, without reasonable excuse, fails to comply with or, contravenes, any other provisions of this Act or of any rule made thereunder shall, if no other penalty is expressly provided for such contravention, upon the order by the Housing Regulatory Authority in that regard, be liable to pay the penalty which may extend to rupees ten lakhs.

Miscellaneous
provisions
with respect
to
Competent
Authority,
Housing
Regulatory
Authority
or Housing
Appellate
Tribunal.

50. (1) The Chairpersons, Members, Officers and other employees of the Competent Authority, the Housing Regulatory Authority or, the Housing Appellate Tribunal, as the case may be, shall be deemed, when acting or purporting to act in pursuance of the provisions of this Act, to be the public servant within the meaning of section 21 of the Indian Penal Code.

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1860.

(2) Every proceeding before the Competent Authority, the Housing Regulatory Authority and the Housing Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the Competent Authority, the Housing Regulatory Authority and the Housing Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

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1974.

(3) No suit, prosecution or any other legal proceedings shall lie against the Competent Authority, the Housing Regulatory Authority and the Housing Appellate Tribunal or any of its officers or employees in respect of anything which is done or purported to be done, under this Act, in good faith.

(4) No civil court shall have jurisdiction in respect of any matter which the Competent Authority, the Housing Regulatory Authority or the Housing Appellate Tribunal is empowered by or under this Act to determine.

51. (1) The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying into effect the provisions of this Act. Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the sessions in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

52. The Housing Regulatory Authority may, subject to the previous approval of the State Government, by notification in the *Official Gazette*, make regulations consistent with this Act and the rules made thereunder, for all or any of the matters for which provision is, in the opinion of the Housing Regulatory Authority, necessary for the exercise of its powers and the discharge of its functions under this Act. Power to make regulations.

IV of 1882. 53. The provisions of this Act, except where otherwise provided, shall be in addition to the provisions of the Transfer of Property Act, 1882, and shall take effect notwithstanding anything to the contrary contained in any contract. Act to be in addition to Transfer of Property Act, 1882 and to override contract to the contrary.

Mah. XXVII of 1977. 54. Nothing in this Act shall apply to the Maharashtra Housing and Area Development Authority and the Boards established under the Maharashtra Housing and Area Development Act, 1976. Act not to apply to certain Authority and Boards.

55. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty : Removal of difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mah. XLV of 1963. 56. (1) On and from the appointed day, the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, shall stand repealed : Repeal and savings.

Provided that, the repeal shall not affect,—

(a) the previous operation of the law so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the law so repealed, or

(d) any investigation, proceedings, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, proceedings, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act has not been passed :

Provided further that, subject to the preceding proviso and any saving provisions made elsewhere in this Act, anything done or any action taken under the provisions of the law so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

(2) Any reference in any law or in any instrument or other document to the provisions of the law so repealed shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Act.

SCHEDULE I

[See section 11(2)]

I. Measures for protection and safety of property building to be taken by the promoter.—

1. The promoter, the architect and the engineer engaged by the promoter, shall comply with the measures for safe construction and protection of properties against natural calamities as per the building bye-laws and local code, provisions of the National Building Code and other standards and such other measures as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

2. For the purposes of compliance with the measures referred to in paragraph 1, the promoter shall enter into separate agreements and engage the services of an architect and an engineer and inform the Housing Regulatory Authority about such engagement of an architect or an engineer, as the case may be.

3. The promoter, the architect and the engineer engaged by the promoter shall jointly file a certificate, duly signed by each of them with the local authority at such intervals as the local authority may specify, certifying that the building or flats are being constructed in accordance with the plans approved by the concerned authority and

that all the measures referred to in this Schedule are being complied with in respect of the buildings or flats under construction to ensure their safe construction and protection against the natural calamities.

4. If for any reason, there is a change of architect or engineer during the construction of the building or flats, the promoter shall,—

(a) engage immediately, another architect or engineer, as the case may be, and the incoming architect or engineer shall satisfy himself about the compliance of the measures as mentioned in the previous certificates submitted to the local authority or other authorities, before taking up the responsibility of certificates in future regarding compliance of the said measures;

(b) inform the Housing Regulatory Authority about the engagement of another architect or engineer, as the case may be.

II. Measures for insurance against loss or death,—

1. The promoter shall obtain an insurance policy for the building or flats, during the period of their construction, against loss or damage by natural calamities, for the cost or replacement of such building and loss of life and bodily injuries suffered by persons, workers and labourers constructing such building or flats, who may be inside or within the vicinity of such building or flats.

2. The promoter shall insure with any general insurance company licensed to operate in India and obtain an insurance policy or policies covering the liability of any loss of life and bodily injuries suffered by persons, workers and labourers as above, and shall keep the Housing Regulatory Authority informed of payment of premium, from time to time, against such insurance policy or policies.

SCHEDULE II

(See section 12)

I. Promoter's responsibility regarding the account of sums taken from or on behalf of unit purchasers or flat purchasers.—

1. The promoter shall maintain building wise separate account in any Bank, of the sums taken by him, from or on behalf of, persons intending to take or who have taken flat in the phase developed by the promoter, as advance towards maintenance and outgoings including any sum so taken towards the share capital for the formation of a co-operative society or a company or association and including ground rent, if any, municipal or other local taxes, charges for water or electricity, security, maintenance of gardens, club house, swimming pool, insurance, equipments, revenue assessment, if any, stamp duty and registration fee for the agreement of sale and conveyance deed.

As regard to the outgoings payable by the apartment or flat or unit purchasers or organization, to the promoter for the maintenance of lay out land or project wise such as club house, swimming pool,

internal access roads, gardens, electricity, water, equipments, insurance, municipal and other local taxes, and the like, the same shall be collectively maintained in a separate account.

2. The promoter shall hold the sums collected as per paragraph 1 for the purposes for which they were given and shall disburse the same for said purposes including the development of real estate project and shall on demand, in writing, by the Housing Regulatory Authority or the flat or unit purchaser, individually or collectively, make full and true disclosure of all transactions in respect of that account on payment of charges and shall not utilize these sums for any purpose other than the purpose for which they were so collected.

II. Responsibility of promoter for outgoings till transfer of management to the collective body of the allottees, flat or unit purchasers.—

1. The promoter, who has collected from the allottee or flat or unit purchasers, sums for the payment of outgoings, shall pay all charges, including ground rent, municipal or other local taxes, charges for water or electricity, interest on mortgages or other encumbrances, if any, security, maintenance of gardens, club house, swimming pool, insurance, equipments, till the amounts collected for the same are fully depleted or exhausted for the said purpose. If the handing over management or transfer of the physical possession of the building or property, as the case may be, to the organization of the flat or unit purchasers, whichever is later, takes place before the amounts are fully depleted or exhausted, then the balance amount, if any, with the promoter shall be refunded to the organization being collective body of the flat or unit purchasers or the Apex Body or Federation, as the case may be.

2. After the transfer of management of the building by the promoter to the organization, being collective body of the flat or unit purchasers, such payments and outgoings shall be made by the flat or unit purchasers or such collective body of flat or unit purchasers, as the case may be. The transfer of management of the building or the lay out land, as the case may be, shall be only after the promoter has received all outstanding dues from the flat or unit purchasers' organization and after the transfer of management of the building or the lay out land, as the case may be, by the promoter to the organization being collective body of flat or unit purchasers or Apex Body or Federation, it shall be the responsibility of such organization to maintain the said building or the lay out land, as the case may be, and to pay the outgoings thereof.

3. The promoter shall discharge liability in respect of the above till the sums and deposits collected by him shall remain balance in a separate account held by the promoter in the bank . On the amount

being depleted, the promoter shall be entitled to raise the bill and collect the amounts for the outgoings from the flat or unit purchasers for the building or lay out land, as the case may be.

III. Refund of amount.—

1. If the promoter fails or is unable to give possession of a flat or an apartment,—

(a) in accordance with the terms of the agreement or, as the case may be, duly completed by the date specified therein or any further date agreed to by the parties ; or

(b) on account of cancellation of his registration under this Act, he shall be liable on demand, without prejudice to other remedies to which he may be liable, to refund the amounts already received by him in respect of that flat, with interest at a rate of fifteen per cent. per annum as provided in this Act, including penalty at such rate as may be determined by the Housing Regulatory Authority.

2. The interest referred to in paragraph 1 above, shall be chargeable from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded and such amount and interest shall be a charge on the allottee, flat or unit purchasers' respective flat or building, as the case may be.

IV. Inspection of accounts or records of sums taken for and on behalf of flat purchasers or unit holders.—

The Housing Regulatory Authority may, after giving three days' advance notice to the promoter, inspect or cause to be inspected, at any time during business hours, any accounts or records of a promoter relating to outgoings in respect of the allottee's complaint.